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2019 Regular Session

Volume I
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CHAPTER 1

(SB 77)

AN ACT relating to expanding organ donor registration.

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

➔Section 1. KRS 311.1947 is amended to read as follows:

(1) Contingent upon the availability of funding, the Cabinet for Health and Family Services shall facilitate the establishment of a statewide electronic registry for organ and tissue donation for transplantation purposes. The cabinet may contract with a public or private nonprofit entity to perform gatekeeper functions of the registry that include but are not limited to the operation, maintenance, privacy, and security of the registry.

(2) An ongoing collaboration shall be established among the Transportation Cabinet, the Cabinet for Health and Family Services, the Kentucky Circuit Court Clerks Trust for Life, the Kentucky Hospital Association, the Kentucky Medical Association, and the federally certified organ and tissue procurement organizations that operate in Kentucky to develop strategies for the operation of the registry. Strategies shall include but not be limited to:

(a) Donor designation at the time of application or renewal of a driver's license;

(b) ***Donor designation at the time of application or renewal of a state identification card;***

(c) Donor designation on the Commonwealth's single sign-on system;

(d) ***Other*** online registration as a donor;

(e)~~[(c)]~~ Removal or exit from the registry;

(f)~~[(d)]~~ Timely access to the registry by relevant parties in accordance with federal laws and regulations relating to organ and tissue donation and procurement for transplantation purposes; and

(g)~~[(e)]~~ Evaluation of the effectiveness of the registry.

(3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

➔Section 2. This Act takes effect January 1, 2020.

Signed by Governor March 5, 2019.

CHAPTER 2

(SB 4)

AN ACT relating to elections.

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

➔Section 1. KRS 121.005 is amended to read as follows:

(1) The General Assembly finds and declares that:

(a) The intent of disclosure of campaign finance information is to make that information about ***political contributions and expenditures***~~[the role of money in politics]~~ accessible to the public;

(b) The volume of campaign finance reports submitted each year to the state renders it virtually impossible, without the help of computer technology, to derive meaningful conclusions from the records; ***and***

(c) Computer automation is a necessary and effective means of transmitting, organizing, storing, and retrieving vast amounts of data submitted by candidates in election campaigns~~[; and~~

~~(d) Although candidates are currently permitted to file campaign finance reports electronically if they so choose, very few candidates have chosen to do so, and therefore access to campaign finance data through electronic or on-line technology is limited]~~.

(2) The General Assembly enacts this legislation to accomplish the following:

(a) To improve the existing system of electronic reporting and extend its usage to more candidates;

(b) To allow concerned persons easy, convenient, and timely access to campaign finance reports submitted to the state;

(c) To ease the burden on candidates and committees of tabulating, filing, and maintaining public records of financial activity;

(d) To strengthen both the disclosure and enforcement capabilities of the Registry of Election Finance;

(e) To cooperate in the standardization of reporting formats among states so that interstate as well as intrastate sources of political money can be known;

(f) To provide for a fully informed electorate; and

(g) To help restore public trust in the governmental and electoral institutions of this state.

➔Section 2. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the ***chair*** ~~[chairman]~~, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c) of this subsection;

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry pursuant to KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the secretary of the Personnel Cabinet and shall be subject to ***the secretary's*** ~~[his]~~ review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, ***contributing organizations,*** and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, ***contributing organizations,*** and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, and parties containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate or slate of candidates, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, ***or*** to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which ***the contributor*** ~~[he]~~ is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which ***the contributor*** ~~[he]~~ is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, ***consolidated local government, unified local government,*** and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, ***consolidated local government, unified local government,*** or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion; and

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter which may become the subject of civil or criminal prosecution.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or

indirectly, attempt to secure or create privileges, exemptions, or advantages for himself***, herself,*** or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he ***or she*** considers to be an abridgement of his ***or her*** legal rights.

(6) If adequate and appropriate agency funds are available, the registry shall:

(a) Develop or acquire a system for electronic reporting for use by individuals and entities required to file campaign finance reports with the registry under this chapter. The registry shall promulgate administrative regulations under KRS Chapter 13A which provide for a nonproprietary standardized format or formats, using industry standards, for the transmission of data required under this chapter;

(b) Accept test files from software vendors and persons wishing to file reports electronically for the purpose of determining whether the file format complies with the nonproprietary standardized format developed under paragraph (a) of this subsection and is compatible with the registry's system for receiving the data;

(c) Make all~~[paper or electronic]~~ reports filed with the registry pertaining to candidates for the General Assembly and statewide office available on the Internet free of charge, in an easily understood format that allows the public to browse, search, and download the data contained in the reports by each of the reporting categories required by this chapter, including but not limited to:

1. The name of each candidate or committee;

2. The office sought by each candidate;

3. The name of each contributor;

4. The address of each contributor;

5. The employer or business occupation of each contributor, or if the contributor is a permanent committee, a description of the major business, social, or political interest represented by the permanent committee;

6. The date of each contribution; and

7. The amount of each contribution;

(d) Make all data specified in paragraph (c) of this subsection available on the Internet no later than ten (10) business days after its receipt by the registry. If a contribution or expenditure report is filed late with the registry, that data shall be made available on the Internet within twenty-four (24) hours of the registry's receipt of the data;

(e) Make filer-side software available free of charge to all individuals or entities subject to the reporting requirements of this chapter;

(f) Establish a training program on the electronic reporting program and make it available free of charge to all individuals and entities subject to the reporting requirements of this chapter;

(g) Maintain all campaign finance data pertaining to legislative and statewide candidates on-line for twenty (20) years after the date the report containing the data is filed, and then archive the data in a secure format;~~[and]~~

(h) Require candidates and slates of candidates running for statewide office, and campaign committees of candidates and slates of candidates registered to run for statewide office, beginning with elections scheduled in 2015, to electronically report all ***campaign***~~[election]~~ finance reports that must be submitted to the registry under this chapter. If any statewide candidate, slate of candidates, or campaign committee of a statewide candidate or slate of candidates submits ***a campaign***~~[an election]~~ finance report in a nonelectronic format for an election scheduled in 2015 or later, the registry shall require the statewide candidate, slate of candidates, or campaign committee of the statewide candidate or slate of candidates to resubmit the ***campaign***~~[election]~~ finance report in an electronic format~~[the first time that entity files an electronic report for that election]~~***;***

(i) Require all candidates, slates of candidates, committees, and contributing organizations, beginning with the primary scheduled in 2020, and for each subsequent election scheduled thereafter, to electronically report all campaign finance reports required to be submitted to the registry under this chapter. If any candidate, slate of candidates, committee, or contributing organization submits a campaign finance report to the registry in a nonelectronic format for an election or calendar period beginning in 2020 or later, the registry shall require the candidate, slate of candidates, committee, or contributing organization to resubmit the campaign finance report in an electronic format. If any candidate, slate of candidates, committee, or contributing organization does not submit the required campaign finance reports electronically by the applicable filing deadline, the registry shall publish the candidate, slate of candidates, committee, or contributing organization's name as a delinquent filer until such time as the campaign finance report is properly filed in an electronic format; and

(j) Require all independent expenditure reports to be submitted electronically within forty-eight (48) hours of the date that the communication is publicly distributed or otherwise publicly disseminated, beginning with the primary scheduled in 2020, and for each subsequent election scheduled thereafter.

(7) In conjunction with the program of electronic reporting set out in subsection (6) of this section, the registry shall deem an electronic report to be filed when submitted by either of the following methods:

(a) Online Internet transmission; or

(b) ~~[Delivery by mail or]~~Hand delivery of the electronic report***,*** saved ***on a current and compatible computer component, and downloaded at the registry***~~[on optical or magnetic disk]~~.

➔Section 3. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section if the candidate, slate of candidates, or political issues committee chair files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election.~~[For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph 1. or 2. of paragraph (k) of this subsection.]~~ A separate form shall be required for each primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chair indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) For a primary, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (c) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than ***thirty (30) days preceding the primary***~~[fifteen (15) days after the filing deadline]~~. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than ***sixty (60) days preceding the regular election***~~[twenty-five (25) days after the date of the preceding primary election]~~, except as provided in subparagraph 2. of paragraph (c) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than ***thirty (30) days preceding the special election***~~[twenty-five (25) days after the date on which the nomination for a special election is made]~~. A political issues committee chair shall file a request for exemption ***when***~~[not later than ten (10) days after the date on which]~~ the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than ***thirty (30) days preceding the date the issue appears on the ballot***~~[fifteen (15) days after the date on which the request for exemption is filed]~~.

(c) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. To revoke the request for an exemption, the candidate or slate of

candidates shall file the appropriate form with the registry not later than the deadline for filing a revocation.

2. A candidate ***or slate of candidates that***~~[for any city, urban county government, charter county government, consolidated local government, unified local government, or county office or for any school board office, who]~~ is exempted from campaign finance reporting requirements pursuant to paragraph (a) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate ***or slate of candidates*** accepts or receives in that election. The filing of applicable required reports by a candidate ***or slate of candidates*** after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate ***or slate of candidates***, except for failure to file applicable reports required after the exempted amount is exceeded.

(d) Any candidate or slate of candidates that is subject to ***a June or***~~[an]~~ August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (c) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than ***sixty (60) days preceding the regular election***~~[fifteen (15) days after the filing deadline]~~. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (c) of this subsection.

(e) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed a request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection if a candidate or slate of candidates that is subject to ***a June or***~~[an]~~ August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (c) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (c) of this subsection.

(f) Except as provided in subparagraph 2. of paragraph (c) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection.

(g) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (c) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection.

(h) If the opponent of a candidate or slate of candidates is replaced due to his ***or her*** withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (c) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(i) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days ***preceding***~~[after the filing deadline for]~~ the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. Except as provided in subparagraph 2. of paragraph (c) of this subsection, a person intending to be a write-in candidate who revokes a request for exemption shall file the appropriate form with the registry~~[not later than fifteen (15) days after the filing deadline for the regular or special election]~~.

(j) Except as provided in subparagraph 2. of paragraph (c) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues

committee whose chair has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner.

(k) 1. Except as provided in subparagraph 2. of paragraph (c) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (d), or (i) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not ***less*** ~~[more]~~ than five hundred dollars ($500) ~~[plus the amount by which the spending limit was exceeded]~~.

2. Except as provided in subparagraph 2. of paragraph (c) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (d), or (i) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) (a) State and county executive committees, and caucus campaign committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

3. The total amount of cash contributions received during the reporting period; and

4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) In addition to the reporting requirements in paragraph (a) of this subsection, the state executive committee of a political party that has established a building fund account under KRS 121.172 shall make a full report, upon a prescribed form, to the registry, of all contributions received from any source, and expenditures authorized, incurred, or made, since the date of the last report for the separate building fund account, including:

1. For each contribution of any amount made by a corporation, the name and business address of the corporation, the date of the contribution, the amount contributed, and a description of the major business conducted by the corporation;

2. For other contributions in excess of one hundred dollars ($100), the full name and address of the contributor, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

3. The total amount of cash contributions received during the reporting period; and

4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(c) The report required by paragraph (a) of this subsection shall be made on a semiannual basis and shall be received by the registry by January 31 and by July 31 ~~[, and any report received by the registry within five (5) days after each filing deadline shall be deemed timely filed]~~. The January report shall cover the period from July 1 to December 31. The July report shall cover the period from January 1 to June 30. If an individual gives a reportable contribution to a caucus campaign committee or to a state or county

executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The report required by paragraph (b) of this subsection relating to a state executive committee's building fund account shall be received by the registry within ***two (2) business*** ~~[five (5)]~~ days after the close of each calendar quarter. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required by this subsection to be received by the registry by January 31~~[, and if received by the registry within five (5) days after the filing deadline, it shall be deemed timely filed]~~.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he or she is doing business, and the amount contributed by each contributor;~~[and]~~

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. of this paragraph or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

4. The total amount of cash contributions received during the reporting period; and

5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), slates of candidates, ***candidate-authorized and unauthorized*** campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate, a slate of candidates, or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after persons become candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, slates of candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;

2. All candidates, slates of candidates, ***candidate-authorized and unauthorized*** campaign committees, political issues committees, and registered fundraisers shall make reports on the sixtieth day preceding a regular election, including all previous contributions and expenditures;

3. All candidates, slates of candidates, ***candidate-authorized and unauthorized*** campaign committees, political issues committees, and registered fundraisers shall make reports on the thirtieth day preceding an election, including all previous contributions and expenditures;

4. All candidates, slates of candidates, ***candidate-authorized and unauthorized*** campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and

5. ***All reports to the registry shall cover campaign activity during the entire reporting period and must be received by the registry within two (2) business days after the date the reporting period ends to***~~[All reports to the registry shall be received by the registry on or before each filing deadline, and any report received by the registry within five (5) days after each filing deadline shall]~~ be deemed timely filed.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(a) of this section, all candidates, regardless of funds received or expended, ***candidate-authorized and unauthorized*** campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election***. All post-election reports to the registry shall cover campaign activity during the entire reporting period and must be received by the registry within two (2) business days after the date the reporting period ends to***~~[, and any report received by the registry within five (5) days after each filing deadline shall]~~ be deemed timely filed.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he or she is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he or she is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally registered~~[out-of-state]~~ permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry

not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be received on or before each filing deadline, and any report received by the registry within ***two (2) business*** ~~[five (5)]~~ days after each filing deadline shall be deemed timely filed.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be received by the registry by December 1 of each year, ~~[and any statement received by the registry within five (5) days after December 1 of each year shall be deemed timely filed,]~~ until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate or a slate of candidates seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate or a slate of candidates shall file the supplemental annual report by December 1 of that year or at the end of the first calendar quarter of that year after the candidate or slate of candidates files nomination papers for the next year's primary or regular election ~~[, and any report received by the registry within five (5) days after the applicable filing deadline shall be deemed timely filed]~~. ***All post-election reports to the registry shall cover campaign activity during the entire reporting period and must be received by the registry within two (2) business days after the date the reporting period ends to be deemed timely filed.*** All contributions shall be subject to KRS 121.150 ***as of the date of the election in which the candidate appeared on the ballot***.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed two hundred dollars ($200) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to a caucus campaign committee, or to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized

under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) ~~[(a) For the purposes of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a candidate for a particular office, means the period of time beginning January 1 following a regular election for the office and ending December 31 following the next regular election for that office.~~

~~(b) For the purpose of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a constitutional amendment or public question which appears on the ballot, means the period of time beginning January 1 following a regular election for any state legislative office and ending December 31 following the next regular election for any state legislative office.~~

~~(c)]~~If adequate and appropriate agency funds are available to implement this subsection, ***electronic***~~[the option of Electronic]~~ reporting shall be made available by the registry to all candidates, ***slates of candidates,*** committees, ***contributing organizations,*** registered fundraisers, and persons making independent expenditures**.**~~[, in addition to those candidates, slates of candidates, and campaign committees that are required to electronically report under KRS 121.120(6)(h).~~

~~(12) Filers specified in subsection (11) of this section may file required campaign finance reports in paper or electronic format. If the candidate or slate of candidates chooses to file a report in electronic format,]~~ The electronic ***report submitted to the registry***~~[copy]~~ shall be the official ***campaign finance report***~~[version]~~ for audit and other legal purposes***, whether mandated or filed by choice***.

(12)~~[(13)]~~ Filers not required to file reports electronically, as set forth in this section, are strongly encouraged to do so voluntarily.

(13)~~[(14)]~~ The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.

(14)~~[(15)]~~ All electronic or online filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.

(15)~~[(16)]~~ Filers who submit ***electronic campaign finance reports***~~[computer disks]~~ which are not readable, ***or*** cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.

(16)~~[(17)]~~ ***Beginning with the primary scheduled in calendar year 2020, and for each subsequent election scheduled thereafter, reports required to be submitted to the registry involving candidates, slates of candidates, committees, contributing organizations, and independent expenditures shall be reported electronically***~~[No candidate is obligated to file any reports electronically, except for those candidates, slates of candidates, and campaign committees that are required to electronically report under KRS 121.120(6)(h)]~~.

(17)~~[(18)]~~ (a) On each paper and electronic form that ***the registry***~~[it]~~ supplies for the reports required under subsections (2), (3), and (6) of this section, the registry shall include an entry reading, "No change since last report."

(b) If a person or entity that is required to report under subsection (2), (3), or (6) of this section has received no money, loans, or other things of value from any source since the date of its last report and has not authorized, incurred, or made any expenditures since that date, the person or entity may check or otherwise designate the entry that reads, "No change since last report." A person or entity designating this entry in a report shall state the balance carried forward from the last report but need not specify receipts or expenditures in further detail.

➔Section 4. KRS 121.210 is amended to read as follows:

(1) Each candidate ***or slate of candidates*** may designate one (1) central campaign committee ***as a candidate-authorized campaign committee***. If so designated, the central campaign committee shall receive all reports made by any other campaign committee authorized in writing by the candidate ***or slate of candidates*** to accept contributions or make expenditures for the purpose of influencing the nomination for election, or election, of the candidate ***or slate of candidates*** who designated ***a***~~[it as his]~~ central campaign committee.

(2) Each statement or report which ***a candidate***-~~[an]~~authorized committee is required to file with or furnish to the registry shall, if that committee is not a central campaign committee, be furnished instead to the central campaign committee for the candidate on whose behalf that committee is, or is established for the purpose of, accepting contributions or making expenditures.

(3) Each central campaign committee shall receive all reports and statements filed with or furnished to it by other ***candidate*** authorized committees, and shall consolidate and furnish the reports and statements to the registry, together with its own reports and statements as prescribed by KRS 121.180.

(4) ***A campaign committee***~~[Campaign committees]~~ not authorized by, or which ***has***~~[have]~~ been disavowed by the candidate, shall not include the name of the candidate as part of the committee's name and shall file the reports and statements with the registry as prescribed in KRS 121.180 ***as an unauthorized campaign committee***.

Signed by Governor March 6, 2019.

CHAPTER 3

(SB 31)

AN ACT relating to sibling visitation.

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

➔Section 1. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect, or abuse;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) A licensed child-caring facility or child-placing agency evaluating placement for or serving a child who is believed to be the victim of an abuse, neglect, or dependency report;

(e) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;

(f) A noncustodial parent when the dependency, neglect, or abuse is substantiated;

(g) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;

(h) Employees or designated agents of a children's advocacy center;

(i) Those persons so authorized by court order; or

(j) The external child fatality and near fatality review panel established by KRS 620.055.

(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case, including a cabinet investigation or assessment of child abuse, neglect, and dependency in accordance with this chapter;

2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms;

3. The court and those persons so authorized by a court order;

4. The external child fatality and near fatality review panel established by KRS 620.055; and

5. The parties to an administrative hearing conducted by the cabinet or its designee in accordance with KRS Chapter 13B in an appeal of a cabinet-substantiated finding of abuse or neglect. The children's advocacy center may, in its sole discretion, provide testimony in lieu of files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by the center if the center determines that the release poses a threat to the safety or well-being of the child, or would be in the best interests of the child. Following the administrative hearing and any judicial review, the parties to the administrative hearing shall return all files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by the children's advocacy center to the center.

(b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse or neglect of a child.

(8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

(9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.

(10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:

1. Make and retain one (1) copy of the interview; and

2. Make one (1) copy for the defendant's or respondent's counsel that the defendant's or respondent's counsel shall not duplicate.

(b) The defendant's or respondent's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

(d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

(a) To law enforcement officials that have a legitimate interest in the case;

(b) To the agency designated by the cabinet to investigate or assess the report;

(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600

(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report; or

(e) The external child fatality and near fatality review panel established by KRS 620.055.

(12) (a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:

1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and

2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.

(c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.

(13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings or an administrative hearing conducted by the cabinet or its designee in accordance with KRS Chapter 13B in an appeal of a cabinet-substantiated finding of child abuse or neglect. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

(15) In accordance with 42 U.S.C. sec. 671, the cabinet shall share information about a child in the custody of the cabinet with a relative or a parent of the child's sibling for the purposes of:

(a) Evaluating or arranging a placement for the child;

(b) Arranging appropriate treatment services for the child; or

(c) Establishing visitation between the child and a relative, including a sibling of the child.

(16) In accordance with 42 U.S.C. sec. 671, the cabinet shall, in the case of siblings removed from their home who are not jointly placed, provide for frequent visitation or other ongoing interaction between the siblings, unless the cabinet determines that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.

Signed by Governor March 11, 2019.

CHAPTER 4

(SB 32)

AN ACT relating to water well drillers.

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

➔Section 1. KRS 223.400 is amended to read as follows:

As used in KRS 223.405 to 223.460, unless the context requires otherwise:

(1) "Alteration or repair of a water well" means any maintenance, addition, or change of well or pitless adapter, but does not include replacement or repair of a water pump or associated piping***;*** ~~[.]~~

(2) "Board" means the Kentucky Water Well Certification Board;

(3) "Cabinet" means the Energy and Environment Cabinet;

(4) "Certificate" means a certificate of competency issued by the secretary stating that the water well driller has met all the requirements for the appropriate classification set forth in KRS 223.405 to 223.460 or by regulation;

(5) "Person" means an individual, corporation, partnership, association, municipality, state and federal government, or other public body or other legal entity, or any officer, employee, or agent of any of the foregoing***;*** ~~[.]~~

(6) "Secretary" means the secretary of the Energy and Environment Cabinet;

(7) "Water well" or "well" means any excavation or opening in the surface of the earth that is drilled, cored, bored, washed, driven, jetted, or otherwise constructed when the actual or intended use in whole or part of an excavation is the removal of water for any purpose, including but not limited to culinary and household purposes, animal consumption, food manufacture, use of geothermal resources for domestic heating purposes and industrial, irrigation, and dewatering purposes, but not including wells to be used for watering stock or for general farmstead use if the wells do not provide water for human consumption;

(8) "Water well driller" means a person who is qualified to engage in the drilling, alteration, or repair of a water well as defined in this chapter***; and***

(9) "Water well driller's assistant" means a person who is qualified to engage in the drilling, alteration, or repair of a water well under the supervision of a certified water well driller who provided the affidavit of supervision required under subsection (5)(g) of Section 3 of this Act.

➔Section 2. KRS 223.405 is amended to read as follows:

It is unlawful for any person as defined in KRS 223.400, to construct, alter, or repair a water well without first having obtained a valid certificate ***as a water well driller or as a water well driller's assistant*** as provided for in KRS 223.425.

➔Section 3. KRS 223.425 is amended to read as follows:

(1) Application for a certificate, or for renewal thereof, shall be made to the cabinet in writing under oath or affirmation, upon forms prescribed and furnished by the cabinet. The applications shall include:

(a) The name and address of the applicant;

(b) Prior experience, if any, in the field for which the applicant is applying;

(c) Any other information that the cabinet deems necessary in order to carry out the provisions of KRS 223.405 to 223.460; and

(d) All past and current licenses held in this or any other state relating to the provisions of KRS 223.405 to 223.460.

(2) The cabinet may issue a water well driller certificate to any applicant who meets all of the provisions of KRS 223.405 to 223.460 and:

(a) Is at least eighteen (18) years of age; and

(b) Is ***legally permitted to work in*** ~~[a citizen of]~~ the United States~~[or has declared an intention to become a citizen of the United States]~~; and

(c) Has worked for two (2) years under the supervision of a certified water well driller or has other suitable experience or education as determined by the cabinet. For those in business on July 13, 1984, the two (2) year experience requirement shall be deemed satisfied if the driller has engaged in water well drilling, over the two (2) previous years; and

(d) Has a passing grade on the examination as determined by the cabinet.

(3) ~~[Those persons in business for two (2) years on July 13, 1984, shall be deemed exempt from the examination requirements of this chapter and shall apply for and obtain a certificate by July 1, 1985.~~

~~(4)]~~Those persons who are water witchers, dowsers, diviners, and any others who use divining rods for the purpose of locating underground water resources shall be exempt from KRS 223.405 to 223.460 for the purpose of locating underground water resources, but are not exempt from the requirements of KRS 223.405 to 223.460 for the purpose of installing water wells.

(4) ~~[(5)]~~ The term of each certificate shall be one (1) year. Each certificate shall carry with it the right to successive renewal upon application and payment of fee, unless the board finds that the certified individual has failed to comply satisfactorily with KRS 223.405 to 223.460 or the regulations promulgated pursuant to KRS 223.420 or 223.435.

(5) Application for a certified water well driller's assistant card shall be made on forms prescribed and furnished by the cabinet. Applications shall include the following information:

(a) Name and address of the applicant;

(b) Prior experience, if any, in the field for which the applicant is applying;

(c) Past and current licenses held in the Commonwealth or any other state that relates to KRS 223.405 to 223.460;

(d) Proof that the applicant is at least eighteen (18) years of age;

(e) Proof that the applicant is legally permitted to work in the United States;

(f) Proof that the applicant has a passing grade on examinations required by the cabinet;

(g) An affidavit of supervision signed by the certified water well driller, which shall include, at a minimum, the following information:

1. The name and certification number of the certified water well driller;

2. The name of the company under which the certified water well driller works;

3. The name and address of the certified water well driller's assistant to be supervised under the company identified in subparagraph 2. of this paragraph;

4. The effective date when supervision is to begin, and a statement that supervision shall remain in effect until such time as the certified water well driller provides written notice to the Division of Water and the water well driller's assistant of the termination of supervision;

5. The types of duties or operations to be performed by the water well driller's assistant while under supervision of the certified water well driller, and a statement that the work to be performed shall be in accordance with all applicable statutes and administrative regulations; and

6. Notarized signatures of the certified water well driller and the certified water well driller's assistants; and

(h) Any other information that the cabinet deems necessary in order to carry out KRS 223.405 to 223.460.

(6) The water well driller's assistant card shall be effective for one (1) year and shall be subject to successive renewal upon submission of application and payment of prescribed fee by the cabinet unless:

(a) The cabinet finds that the certified water well driller's assistant has failed to comply with any of the provisions of KRS 223.405 to 223.460 or the administrative regulations promulgated thereunder; or

(b) The certified water well driller's assistant has failed to maintain an annual minimum of eight (8) hours of continuing education credits.

(7) A certified water well driller is allowed to supervise a maximum of two (2) certified water well driller's assistants at any given time.

(8) The water well driller's assistant shall be under the certified water well driller's direct supervision when constructing, modifying, abandoning, or testing a water well.

(9) The cabinet shall promulgate administrative regulations to establish the required forms, process, examination, fees, affidavit of supervision, requirements of direct supervision by the certified driller, and any other requirements necessary for the implementation of the water well driller's assistant certification program.

➔Section 4. KRS 223.430 is amended to read as follows:

(1) Each application for issuance or renewal of a certificate shall be accompanied by a proof of either split limits liability coverage for bodily injury of at least twenty-five thousand dollars ($25,000) per person with an aggregate of at least fifty thousand dollars ($50,000) and for property damage of at least fifty thousand dollars ($50,000) per accident with an aggregate of at least one hundred thousand dollars ($100,000), or single limits liability coverage of not less than one hundred thousand dollars ($100,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident or occurrence. Notice shall be given by certified mail to the executive secretary and treasurer of the board by the insurer upon lapse of coverage by the insurance company for any reason, including nonpayment of premiums.

(2) Prior to the issuance of a driller certificate, proof of a surety bond must be filed along with the application for a certificate. The penal sum of this bond shall be five thousand dollars ($5,000), with the applicant designated as the principal obligor and the Commonwealth designated as the obligee. The surety may be called on by the secretary if the certified individual violates any design standards adopted as administrative regulations pursuant to KRS 223.420 or 223.435 or provision of KRS 223.405 to 223.460. The surety bond shall be used for the express purposes of correcting the violations. Notice of lapse of coverage for any reason by the surety shall be given by certified mail to the executive secretary and treasurer of the board by the surety.

(3) A water well driller's assistant shall work under the liability insurance and surety bond of the supervising certified water well driller, as required under subsections (1) and (2) of this section, unless the water well driller's assistant provides the cabinet proof that he or she obtained liability insurance or a surety bond.

➔Section 5. KRS 223.440 is amended to read as follows:

(1) ***A water well driller*** ~~[Any person]~~ certified under KRS 223.425, shall keep a record of each ***water*** well ***that is*** constructed, altered***,*** or sealed after July 13, 1984, and shall furnish a signed copy of such record to the cabinet within thirty (30) days after the completion of the construction or alteration. A copy of the record shall be furnished to the property owner by the driller within thirty (30) days of completion of the well. Each record required under this section shall be in a form prescribed by the cabinet and shall show:

(a) The name and address of the owner of the well and the persons constructing or altering the well;

(b) A sketch showing the distance from any road, intersection, septic tank drain fields and permanent structures;

(c) The dates of commencement and completion of the construction or alteration of the well;

(d) The depth, diameter, and type of casing;

(e) The kind of joint couplings;

(f) Information on screens and type of completion;

(g) The discharge in gallons per minute and the shut-in pressure in pounds per square inch of a flowing well;

(h) The static water level with reference to the land surface and estimation of well yield, and the drawdown with respect to the amount of water yielded per minute;

(i) The kind, nature, approximate thickness and water-bearing capacity of the material in each stratum penetrated that shows the presence of water, with at least one (1) entry for each change in rock types; ~~[and]~~

(j) The type and amount of disinfectant used and the date of disinfection***; and***

(k) A water well driller's assistant shall not be authorized to certify records related to the construction, modification, abandonment, or testing of a water well.

(2) Where the well is for potable use the well driller shall be responsible for having the well tested for fecal coliform and the initial disinfection of the well. The driller shall provide the well owner and the cabinet with the written results of any and all testing and a written assurance that the well has been properly disinfected, within thirty (30) days of well completion.

(3) A copy of the record shall be furnished by the cabinet to the Kentucky Geological Survey.

➔Section 6. KRS 223.447 is amended to read as follows:

(1) An applicant for a water well driller certification ***or a water well driller's assistant certification*** shall be subject to a fee by the cabinet of ***fifty dollars ($50)***~~[twenty-five dollars ($25)]~~.

(2) An applicant to take a water well driller's certification ***examination or a water well driller's assistant certification*** examination shall be subject to a fee by the cabinet of ***eighty dollars ($80)***~~[forty dollars ($40)]~~.

(3) An applicant for a water well driller's certification ***or a water well driller's assistant certification***, upon notification by the cabinet that all requirements have been met for certification, shall be subject to a certification fee by the cabinet of ***two hundred dollars ($200)***~~[one hundred dollars ($100)]~~ for initial certification.

(4) An applicant for ***the renewal of*** a water well driller's certificate ***or the renewal of a water well driller's assistant certificate***~~[renewal]~~ shall be subject to a renewal fee by the cabinet of ***two hundred dollars ($200)***~~[one hundred dollars ($100)]~~.

➔Section 7. KRS 223.450 is amended to read as follows:

All water well drillers ***and water well driller's assistants***, before doing any water well related work in Kentucky, must comply with KRS 223.405 to 223.460 notwithstanding comparable state provisions in states other than Kentucky.

Signed by Governor March 11, 2019.

CHAPTER 5

(SB 1)

AN ACT relating to school safety and declaring an emergency.

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

➔Section 1. KRS 158.441 is amended to read as follows:

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

(1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs;

(2) "School resource officer" ***or "SRO"*** means ***an***~~[a sworn law enforcement]~~ officer who has specialized training to work with youth at a school site~~[.]~~ ***and is:***

(a) 1. A sworn law enforcement officer; or

2. A special law enforcement officer appointed pursuant to KRS 61.902; and~~[The school resource officer shall be employed:]~~

(b) Employed:

1.~~[(a)]~~ Through a contract between a local law enforcement agency and a school district;~~[or]~~

2.~~[(b)]~~ Through a contract as secondary employment for an officer, as defined in KRS 16.010, between the Department of Kentucky State Police and a school district; ***or***~~[and]~~

3. Directly by a local board of education;

(3) ***"School safety" means a program of prevention that protects students and staff from substance abuse, violence, bullying, theft, the sale or use of illegal substances, exposure to weapons and threats on school grounds, and injury from severe weather, fire, and natural disasters; and***

(4) "School security" means procedures followed and measures taken to ensure the security of school buildings, classrooms, and other school facilities and properties.~~["School security officer" means a person employed by a local board of education who has been appointed a special law enforcement officer pursuant to KRS 61.902 and who has specialized training to work with youth at a school site.]~~

➔Section 2. KRS 158.442 is amended to read as follows:

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety ***and school security*** programs, ***best practices, training standards,*** research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations ***relating to school safety and security***;~~[and]~~

(i) ***Beginning July 1, 2020 and by July 1 of each subsequent year,*** provide an annual report~~[by July 1 of each year]~~ to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky***, including the number and placement of school resource officers working in school districts in Kentucky and the source of funding and method of employment for each position in accordance with Section 6 of this Act;***

(j) Develop and implement a school safety coordinator training program based on national and state best practices in collaboration with the Kentucky Department of Education for school safety coordinators appointed pursuant to Section 5 of this Act. The training shall be approved by the board of directors of the Center for School Safety and include instruction on at least the following:

1. Policies and procedures for conducting emergency response drills using an all-hazards approach including hostage and active shooter situations;

2. Identification and response to threats to school safety and security; and

3. Preparing for, conducting, and reviewing school security risk assessments in accordance with Section 4 of this Act; and

(k) Award a school safety coordinator certificate of completion to a school safety coordinator upon satisfactory completion of the training program.

(3) The Center for School Safety shall be governed by a board of directors ***consisting of fifteen (15) members***~~[appointed by the Governor]~~. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The ***secretary***~~[commissioner]~~ or a designee of the ***Cabinet for Health and Family Services***~~[Department of Juvenile Justice]~~;

(c) The commissioner or a designee of the Department for Behavioral Health, Developmental and Intellectual Disabilities;

(d) The commissioner or a designee of the Department ***of Kentucky State Police***~~[for Community Based Services]~~;

(e) The ***commissioner***~~[secretary]~~ or a designee of the ***Department of Criminal Justice Training***~~[Education and Workforce Development Cabinet]~~;

(f) ***The executive director or a designee of the Kentucky Office of Homeland Security***~~[A juvenile court judge]~~;

(g) ***A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky League of Cities***~~[A local school district board of education member]~~;

(h) ***A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky School Boards Association***~~[A local school administrator]~~;

(i) ***A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky Association of School Superintendents***~~[A school council parent representative]~~;

(j) ***A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky Association of School Resource Officers***~~[A teacher]~~;

(k) ***A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky Education Association***~~[A classified school employee];[and]~~

(l) ***A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky School Nurses Association;***~~[A superintendent of schools who is a member of the Kentucky Association of School Administrators.]~~

(m) A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky Association for Psychology in the Schools;

(n) A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky School Counselor Association; and

(o) A representative which shall be appointed by the Governor from one (1) list of three (3) names submitted by the Kentucky Parent Teacher Association.

(4) Notwithstanding KRS 12.028, the Center for School Safety and its board of directors shall not be subject to reorganization by the Governor.~~[In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.]~~

➔Section 3. KRS 158.443 is amended to read as follows:

(1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of ***four (4)***~~[two (2)]~~ years ***or until his or her successor is duly qualified. A member***~~[and]~~ may be reappointed, but ~~[a member]~~shall not serve more than two (2) consecutive terms.

(2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.

(3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the Office of the Secretary of the Education and Workforce Development Cabinet for administrative purposes.

(4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.

(5) ***The board of directors shall appoint an executive director for the Center for School Safety and establish all positions for appointment by the executive director.***

(6) Using a request-for-proposal process, the board of directors shall select a public university ***or a nonprofit education entity*** to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated or the board determines that the ***administrator for the center***~~[university]~~ is negligent in carrying out its duties as specified in the request for proposal and contract. ~~[The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999.]~~ The ***administrator for the center***~~[university]~~ shall be the fiscal agent for the center and:

(a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the ***administrator of the center***~~[university]~~ and in compliance with policies established by the board of directors per the request for proposal and contract; and

(b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar ~~[university]~~employees ***of the administrator of the center***.

(7)~~[(6)]~~ The board of directors shall annually approve:

(a) A work plan for the center;

(b) A budget for the center;

(c) Operating policies as needed; and

(d) Recommendations for grants~~[, beginning in the 1999-2000 school year and subsequent years,]~~ to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of KRS 158.445.

(8)~~[(7)]~~ The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.

(9) The board of directors shall additionally:

(a) Approve a school safety coordinator training program developed by the Center for School Safety in accordance with Section 2 of this Act;

(b) Approve a school security risk assessment tool and updates as necessary in accordance with Section 4 of this Act to be incorporated by reference within an administrative regulation promulgated in accordance with KRS Chapter 13A; and

(c) Within one (1) year of the effective date of this Act, review the organizational structure and operations of the Center for School Safety and provide recommendations, as needed, for improvements in its organizational and operational performance.

(10)~~[(8)]~~ The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the Department of Criminal Justice Training the office of the state school security marshal. The state school security marshal shall enhance school safety by monitoring school safety

and security initiatives, developing reasonable training and other guidelines, developing a school security risk assessment tool pursuant to subsection (5) of this section, and ensuring compliance with the provisions of subsection (7) of this section and subsection (3) of Section 14 of this Act.

(2) The office of the state school security marshal shall conduct on-site reviews to ensure compliance with subsection (7) of this section and subsection (3) of Section 14 of this Act as deemed necessary by the state school security marshal.

(3) The state school security marshal shall be appointed by and report to the commissioner of the Department of Criminal Justice Training.

(4) By September 1 of each year the state security marshal shall present an annual report to the board of the Center for School Safety which shall consist of a summary of the findings and recommendations made regarding the school safety and security activity of the previous school year and other items of significance as determined by the Center for School Safety or the Department of Criminal Justice Training. Once presented, the annual report information shall also be submitted to the Legislative Research Commission and the Kentucky Board of Education.

(5) By July 1, 2020, the state school security marshal shall develop and update as necessary a school security risk assessment tool in collaboration with the Center for School Safety and the Kentucky Department of Education to be used by local school districts to identify threats, vulnerabilities, and appropriate safety controls for each school within the district. The tool shall be approved by the board of directors of the Center for School Safety pursuant to subsection (9)(b) of Section 3 of this Act and used by local school administrators when completing a school security risk assessment in accordance with this section.

(6) The assessment tool shall enable administrators to evaluate school security compared to best practices and standards in a minimum of the following areas:

(a) School emergency and crisis preparedness planning;

(b) Security, crime, and violence prevention policies and procedures;

(c) Physical security measures;

(d) Professional development training needs;

(e) Support service roles in school safety, security, and emergency and crisis preparedness planning;

(f) School resource officer staffing, operational practices, and related services;

(g) School and community collaboration on school security; and

(h) An analysis of the cost effectiveness of recommended physical security controls.

(7) No later than July 15, 2021, and each subsequent year, the local district superintendent shall send verification to the state school security marshal and the Kentucky Department of Education that all schools within the district have completed the school security risk assessment for the previous year. School security risk assessments shall be excluded from the application of KRS 61.870 to 61.884 pursuant to KRS 61.878(1)(m).

(8) Beginning with the 2021-2022 school year and each subsequent year, any school that has not completed a school security risk assessment in the previous year shall be required to provide additional mandatory training as established by the Department of Criminal Justice Training for all staff employed at the school.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the 2019-2020 school year, each local school district superintendent shall appoint a district-level school administrator to serve as the district's school safety coordinator and primary point of contact for public school safety and security functions.

(2) The district's school safety coordinator shall:

(a) Complete the school safety coordinator training program developed by the Center for School Safety within six (6) months of his or her date of appointment;

(b) Designate a school safety and security threat assessment team at each school of the district consisting of two (2) or more staff members in accordance with policies and procedures adopted by the local board of education to identify and respond to students exhibiting behavior that indicates a potential threat to school safety or security. Members of a threat assessment team may include school

administrators, school counselors, school resource officers, school-based mental health services providers, teachers, and other school personnel;

(c) Provide training to school principals within the district on procedures for completion of the school security risk assessment required pursuant to Section 4 of this Act;

(d) Review all school security risk assessments completed within the district and prescribe recommendations as needed in consultation with the state school security marshal;

(e) Advise the local school district superintendent by July 1, 2021, and annually thereafter of completion of required security risk assessments;

(f) Formulate recommended policies and procedures, which shall be excluded from the application of KRS 61.870 to 61.884, for an all-hazards approach including conducting emergency response drills for hostage, active shooter, and building lockdown situations in consultation and coordination with appropriate public safety agencies to include but not be limited to fire, police, and emergency medical services for review and adoption as part of the school emergency plan required by KRS 158.162. The recommended policies shall encourage the involvement of students, as appropriate, in the development of the school's emergency plan; and

(g) Ensure each school campus is toured at least once per school year, in consultation and coordination with appropriate public safety agencies, to review policies and procedures and provide recommendations related to school safety and security.

(3) The school district, school safety coordinator, and any school employees participating in the activities of a school safety and security threat assessment team, acting in good faith upon reasonable cause in the identification of students pursuant to subsection (2)(b) of this section shall be immune from any civil or criminal liability that might otherwise be incurred or imposed from:

(a) Identifying the student and implementing a response pursuant to policies and procedures adopted under subsection (2)(b) of this section; or

(b) Participating in any judicial proceeding that results from the identification.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Local boards of education, school district superintendents, and local and state law enforcement agencies shall cooperate to assign one (1) or more certified school resource officers to each school within a school district as funds and qualified personnel become available.

(2) Local boards of education utilizing a school resource officer employed by a law enforcement agency or the Department of Kentucky State Police shall enter into a memorandum of understanding with the law enforcement agency or the Department of Kentucky State Police that specifically states the purpose of the school resource officer program and clearly defines the roles and expectations of each party involved in the program. The memorandum shall provide that the school resource officer shall not be responsible for school discipline matters that are the responsibility of school administrators or school employees.

(3) Local boards of education utilizing a school resource officer employed directly by the local board of education shall adopt policies and procedures that specifically state the purpose of the school resource officer program and clearly define the roles and expectations of school resource officers and other school employees.

(4) On or before January 1, 2020, the Kentucky Law Enforcement Council, in collaboration with the Center for School Safety, shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish three (3) levels of training for certification of school resource officers first employed as a school resource officer on or after the effective date of this Act: School Resource Officer Training I (SRO I), School Resource Officer Training II (SRO II), and School Resource Officer Training III (SRO III). Each level shall consist of forty (40) hours of training, with SRO I to be completed within one (1) year of the date of the officer's employment and SRO II and SRO III within the subsequent two (2) years.

(5) Course curriculum for school resource officers employed on or after the effective date of this Act shall include but not be limited to:

(a) Foundations of school-based law enforcement;

(b) Threat assessment and response;

(c) Youth drug use and abuse;

(d) Social media and cyber security;

(e) School resource officers as teachers and mentors;

(f) Youth mental health awareness;

(g) Diversity and bias awareness training;

(h) Trauma-informed action;

(i) Understanding students with special needs; and

(j) De-escalation strategies.

(6) Effective January 1, 2020, all school resource officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council for school resource officers.

(7) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the Department of Criminal Justice Training or a designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.

(8) Any school resource officer who fails to successfully complete training requirements within the specified time periods, including any approved time extensions, shall lose his or her school resource officer certification and shall no longer work in a school.

(9) When a school resource officer is deficient in required training, the commissioner of the Department of Criminal Justice Training or his or her designee shall notify the council, which shall notify the officer and the officer's employing agency.

(10) A school resource officer who has lost school resource officer certification due solely to the officer's failure to meet the training requirements of this section may regain certification status as a school resource officer and return to a school setting upon successful completion of the training deficiency.

(11) No later than November 1 of each year, the local school district superintendent shall report to the Center for School Safety the number and placement of school resource officers in the district. The report shall include the source of funding and method of employment for each position.

➔Section 7. KRS 15.330 is amended to read as follows:

(1) The council is vested with the following functions and powers:

(a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement and telecommunications training courses required under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

(c) To prescribe qualifications for attendance and conditions for expulsion from such schools;

(d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunicators, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;

(e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.404;

(f) To approve law enforcement officers, telecommunicators, and other persons as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;

(g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992, any information or documents;

(h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to 15.404 ***and Section 6 of this Act***;

(i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;

(j) To adopt bylaws for the conduct of its business not otherwise provided for; and

(k) The council shall have the authority to certify police officers as set out in this chapter.

(2) The provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 do not apply to the Department of Kentucky State Police except for the certification requirement established by this chapter.

➔Section 8. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

(a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;

(b) City, county, and urban-county police officers;

(c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

(d) State or public university police officers appointed pursuant to KRS 164.950;

(e) School ***resource***~~[security]~~ officers ***as defined in Section 1 of this Act and*** employed ***or appointed under Section 6 of this Act***~~[by local boards of education who are special law enforcement officers appointed under KRS 61.902]~~;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Department of Alcoholic Beverage Control investigators appointed under KRS 241.090;

(h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;

(i) Fire investigators appointed or employed under KRS 95A.100 or 227.220; and

(j) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.

(2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school ***resource***~~[security]~~ officers ***as defined in Section 1 of this Act and who shall be certified under subsection (1)(e) of this section***~~[employed by local boards of education]~~;

(g) Private security officers;

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and

(i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and

(j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;

(d) Jailers;

(e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and

(f) Commissioner of the State Police.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

➔Section 9. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Cabinet" means the Justice and Public Safety Cabinet;

(2) (a) "Police officer" means:

1. A local officer, limited to:

a. A full-time:

i. Member of a lawfully organized police department of county, urban-county, or city government; or

ii. Sheriff or full-time deputy sheriff, including any sheriff providing court security or appointed under KRS 70.030; or

b. A school ***resource***~~[security]~~ officer ***as defined in Section 1 of this Act***; and

2. A state officer, limited to:

a. A public university police officer;

b. A Kentucky state trooper;

c. A Kentucky State Police arson investigator;

d. A Kentucky State Police hazardous device investigator;

e. A Kentucky State Police legislative security specialist;

f. A Kentucky vehicle enforcement officer;

g. A Kentucky Horse Park mounted patrol officer, subject to KRS 15.460(1)(f);

h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);

i. An agriculture investigator;

j. A charitable gaming investigator;

k. An alcoholic beverage control investigator;

l. An insurance fraud investigator;

m. An Attorney General investigator; and

n. A Kentucky Department of Fish and Wildlife Resources conservation officer, subject to KRS 15.460(1)(e);

who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state;

(b) "Police officer" does not include any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer, or any other peace officer not specifically authorized in KRS 15.410 to 15.510;

(3) "Police department" means the employer of a police officer;

(4) "Retirement plan" means a defined benefit plan consisting of required employer contributions pursuant to KRS 61.565, 61.702, or any other provision of law;

(5) "Unit of government" means any city, county, combination of cities and counties, public university, state agency, local school district, or county sheriff's office of the Commonwealth; and

(6) "Validated job task analysis" means the core job description that describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth, and that is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the council as being competent to conduct such a study.

➔Section 10. KRS 15.450 is amended to read as follows:

(1) The secretary or his or her designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as necessary to carry out the responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(2) The secretary or the designated representative may withhold or terminate payments to any unit of government that does not comply with the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the cabinet under KRS 15.410 to 15.510.

(3) The cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses ***and the salary and associated operating expenses of the office of the state school security marshal***. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.

(4) The cabinet shall furnish periodically to the council any reports as may be deemed reasonably necessary.

➔Section 11. KRS 15A.063 is amended to read as follows:

(1) The Juvenile Justice Oversight Council is created for the purpose of providing independent review of the state juvenile justice system and providing recommendations to the General Assembly. The council is to actively engage in the implementation of the juvenile justice reforms in 2014 Ky. Acts ch. 132, collect and review performance measurement data, and continue to review the juvenile justice system for changes that improve public safety, hold youth accountable, provide better outcomes for children and families, and control juvenile justice costs.

(2) (a) The membership of the council shall include the following:

1. The secretary of the Justice and Public Safety Cabinet, ex officio;

2. The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, ex officio;

3. The commissioner of the Department for Community Based Services, ex officio;

4. The commissioner of the Department of Juvenile Justice, ex officio;

5. The commissioner of the Department of Education, ex officio;

6. The director of the Administrative Office of the Courts, ex officio;

7. The Public Advocate, ex officio;

8. The Senate chair of the Committee on Judiciary, nonvoting ex officio;

9. The House chair of the Committee on Judiciary, nonvoting ex officio; and

10. Five (5) at-large members appointed by the Governor, as follows:

a. One (1) member representing public schools or an education group or organization;

b. One (1) District Judge nominated by the Chief Justice of the Kentucky Supreme Court;

c. One (1) member representing law enforcement;

d. One (1) member of the County Attorneys' Association nominated by the Attorney General; and

e. One (1) member representing community-based organizations, whether for-profit or nonprofit, with experience in programs for juveniles, including substance abuse prevention and treatment, case management, mental health, or counseling.

(b) The chairs of the House and Senate Judiciary Committees shall serve as co-chairs.

(c) At-large members shall be appointed by August 1, 2014, and shall serve a term of two (2) years, and may be reappointed.

(d) Each ex officio member, except for legislative members, may designate a proxy by written notice to the council prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.

(e) Except as otherwise provided by law, members shall not be compensated for being members of the council but shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred while performing council business.

(f) The council shall meet at least quarterly. A quorum, consisting of a majority of the membership of the council, shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.

(3) The council shall:

(a) Oversee the implementation of the reforms contained in 2014 Ky. Acts ch. 132, including:

1. Review of the performance measures to be adopted and recommend modifications;

2. Ensure all policies are implemented in accordance with the time frames established;

3. Ensure the fiscal incentive program established pursuant to KRS 15A.062 is implemented and continue to review the program; and

4. Review the Department of Juvenile Justice facilities plan submitted following a reduction of population and make recommendations to the General Assembly as to the plan and any changes to the reinvestment of savings achieved from the closure of any facilities;

(b) Collect and review performance data and recommend any additional performance measures needed to identify outcomes in the juvenile justice system;

(c) Review the information received from the Department of Education pursuant to KRS 156.095, and determine whether any action is necessary, including additional performance measures, funding, or legislation;

(d) Continue review of juvenile justice areas determined appropriate by the council, including:

1. Status offense reform;

2. Necessary training for school resource officers~~[and school security officers,]~~ as defined in KRS 158.441, in juvenile justice best practices, research and impacts on recidivism and long-term outcomes;

3. Graduated sanctions protocols in public schools, including their current use and their development statewide;

4. A minimum age of criminal responsibility;

5. Competency;

6. Reforms to the family resource and youth service centers in the Cabinet for Health and Family Services;

7. Population levels in Department of Juvenile Justice facilities, and the potential for closure of facilities while maintaining staffing ratios necessary to comply with applicable accreditation standards; and

8. Whether juvenile court hearings should be open to the public; and

(e) Report by November 2014, and by November of each year thereafter, to the Interim Joint Committee on Judiciary and the Governor and make recommendations to the General Assembly for any additional legislative changes the council determines appropriate.

(4) The council shall be attached to the Justice and Public Safety Cabinet for administrative purposes.

(5) The council shall terminate on July 1, 2022, unless the General Assembly extends the term of the council.

➔Section 12. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

(1) "Commission" means a commission issued to an individual by the secretary of justice and public safety, entitling the individual to perform special law enforcement duties on public property;

(2) "Council" means the Kentucky Law Enforcement Council;

(3) "Cabinet" means the Justice and Public Safety Cabinet;

(4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;

(5) "Secretary" means the secretary of the Justice and Public Safety Cabinet;

(6) "Special law enforcement officer":

(a) Means one whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;

(b) Means one whose duties include the prevention, observation, or detection of, or apprehension for, any unlawful activity on specific public property;

(c) Means one whose special duties include the control of the operation, speed, and parking of motor vehicles, bicycles, and other vehicles, and the movement of pedestrian traffic on specific public property;

(d) Means one whose duties include the answering of any intrusion alarm on specific public property;

(e) Shall include the Capitol police, the Capital Plaza police, ***school resource officers***~~[public school district security officers]~~ ***as defined in Section 1 of this Act who are employed directly by a local board of education***, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and

(f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:

1. Sheriffs, sworn deputy sheriffs, city marshals, constables, sworn deputy constables, and coroners;

2. Auxiliary and reserve police appointed under KRS 95.160 or 95.445, or citation and safety officers authorized by KRS 83A.087 and 83A.088;

3. State park rangers and officers of the Division of Law Enforcement within the Department of Fish and Wildlife Resources;

4. Officers of the Transportation Cabinet responsible for law enforcement;

5. Officers of the Department of Corrections responsible for law enforcement;

6. Fire marshals and deputy fire marshals;

7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;

8. Federal peace officers;

9. Those campus security officers who are commissioned under KRS 164.950;

10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and

11. Railroad policemen covered by KRS 277.270 and 277.280; and

(7) "Sworn public peace officer" means one who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch, or service of either, or of any municipality.

➔Section 13. KRS 209A.020 is amended to read as follows:

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

(1) "Cabinet" means the Cabinet for Health and Family Services;

(2) "Dating violence and abuse" has the same meaning as in KRS 456.010;

(3) "Domestic violence and abuse" has the same meaning as in KRS 403.720;

(4) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city, or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as a sheriff, sworn deputy sheriff, campus police officer, law enforcement support personnel, public airport authority security officer, other public and federal peace officer responsible for law enforcement, special local peace officer appointed pursuant to KRS 61.360, school resource officer ***as defined in Section 1 of this Act, KRS 158.441***, ~~[public school district security officer,]~~and any other enforcement officer as defined by law;

(5) "Professional" means a physician, osteopathic physician, coroner, medical examiner, medical resident, medical intern, chiropractor, nurse, dentist, optometrist, emergency medical technician, paramedic, licensed mental health professional, therapist, cabinet employee, child-care personnel, teacher, school personnel, ordained minister or the denominational equivalent, victim advocate, or any organization or agency employing any of these professionals;

(6) "Victim" means an individual who is or has been abused by a spouse or former spouse or an intimate partner who meets the definition of a member of an unmarried couple as defined in KRS 403.720, or a member of a dating relationship as defined in KRS 456.010; and

(7) "Victim advocate" has the same meaning as in KRS 421.570.

➔Section 14. KRS 158.162 is amended to read as follows:

(1) As used in this section:

(a) "Emergency management response plan" or "emergency plan" means a written document to prevent, mitigate, prepare for, respond to, and recover from emergencies; and

(b) "First responders" means local fire, police, and emergency medical personnel.

(2) (a) Each local board of education shall require the school council or, if none exists, the principal in each public school building in its jurisdiction to adopt an emergency plan to include procedures to be followed in case of fire, severe weather, or earthquake, or if a building lockdown as defined in KRS 158.164 is required.

(b) Following adoption, the emergency plan, along with a diagram of the facility, shall be provided to appropriate first responders.

(c) The emergency plan shall be reviewed following the end of each school year by the school council, the principal, and first responders and shall be revised as needed.

(d) The principal shall discuss the emergency plan with all school staff prior to the first instructional day of each school year and shall document the time and date of any discussion.

(e) The emergency plan and diagram of the facility shall be excluded from the application of KRS 61.870 to 61.884.

(3) Each local board of education shall require the school council or, if none exists, the principal in each public school building to:

(a) Establish primary and secondary evacuation routes for all rooms located within the school and shall post the routes in each room by any doorway used for evacuation;

(b) Identify the best available severe weather safe zones, in consultation with local and state safety officials and informed by guiding principles set forth by the National Weather Service and the Federal Emergency Management Agency, and post the location of safe zones in each room of the school;

(c) Develop practices for students to follow during an earthquake; and

(d) Develop and adhere to practices to control the access to each school building. Practices ***shall***~~[may]~~ include but not be limited to:

1. Controlling outside access to exterior doors during the school day;

2. Controlling the ***main***~~[front]~~ entrance of the school ***with*** electronically ***locking doors, a camera, and an intercom system***~~[or with a greeter]~~;

3. Controlling access to individual classrooms~~[. If a classroom is equipped with hardware that allows the door to be locked from the outside but opened from the inside, the door should remain locked during instructional time]~~;

4. ***Requiring classroom doors to be equipped with hardware that allows the door to be locked from the outside but opened from the inside;***

5. Requiring classroom doors to remain closed and locked during instructional time;

6. Requiring classroom doors with windows to be equipped with material to quickly cover the window during a building lockdown;

7. Requiring all visitors to report to the front office of the building, provide valid identification, and state the purpose of the visit; and

8.~~[5.]~~ Providing a visitor's badge to be visibly displayed on a visitor's outer garment.

(4) ***All schools shall be in compliance with the provisions of subsection (3)(d) of this section as soon as practicable but no later than July 1, 2022.***

(5) Each local board of education shall require the principal in each public school building in its jurisdiction to conduct, at a minimum, emergency response drills to include one (1) severe weather drill, one (1) earthquake drill, and one (1) lockdown drill within the first thirty (30) instructional days of each school year and again during the month of January. Required fire drills shall be conducted according to administrative regulations promulgated by the Department of Housing, Buildings and Construction. Whenever possible, first responders shall be invited to observe emergency response drills.

(6)~~[(5)]~~ No later than November 1 of each school year, a local district superintendent shall send verification to the Kentucky Department of Education that all schools within the district are in compliance with the requirements of this section.

(7) A district with a school not in compliance with the requirements of subsection (3)(d) of this section by July 1, 2022, shall not be eligible for approval for new building construction or expansion in the 2022-2023 school year and any subsequent year without verification of compliance, except for facility improvements that specifically address school safety and security issues required by this section or in essential cases for the protection of student or staff health and safety.

➔Section 15. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with

needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.

(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

(a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;

(b) Curriculum content and methods of instruction for each content area, including differentiated instruction;

(c) School-based decision making;

(d) Assessment literacy;

(e) Integration of performance-based student assessment into daily classroom instruction;

(f) Nongraded primary programs;

(g) Research-based instructional practices;

(h) Instructional uses of technology;

(i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;

(k) Educational leadership; and

(l) Strategies to incorporate character education throughout the curriculum.

(4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial

planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.

(6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services shall post on its Web page suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The Web page shall include information related to suicide prevention training opportunities offered by the cabinet or an agency recognized by the cabinet as a training provider.

(b) By ~~[September 15, 2018, and]~~September 15 of each year~~[thereafter]~~, every public ***school shall provide***~~[middle and high school administrator shall disseminate]~~ suicide prevention awareness information ***in person, by live streaming, or via a video recording*** to all ***students in grades six (6) through twelve (12)***~~[middle and high school students]~~. The information may be obtained from the Cabinet for Health and Family Services or from a commercially developed suicide prevention training program.

(c) 1. Beginning with the 2018-2019 school year, and every other year thereafter, a minimum of one (1) hour of high-quality suicide prevention training***, including the recognition of signs and symptoms of possible mental illness,*** shall be required for all ***school district employees with job duties requiring direct contact with students in grades six (6) through twelve (12)***~~[high school and middle school principals, guidance counselors, and teachers]~~. The training shall be provided either in person, by live streaming, or via a video recording and may be included in the four (4) days of professional development under KRS 158.070.

2. When a staff member subject to the training under subparagraph 1. of this paragraph is initially hired during a school year in which the training is not required, the local district shall provide suicide prevention materials to the staff member for review.

(d) The requirements of paragraphs (b) and (c) of this subsection shall apply to public charter schools as a health and safety requirement under KRS 160.1592(1).

(7) ***By November 1, 2019, and November 1 of each year thereafter, a minimum of one (1) hour of training on how to respond to an active shooter situation shall be required for all school district employees with job duties requiring direct contact with students. The training shall be provided either in person, by live streaming, or via a video recording prepared by the Kentucky Department of Education in collaboration with the Kentucky Law Enforcement Council and the Center for School Safety and may be included in the four (4) days of professional development under KRS 158.070.***

(a) When a staff member subject to the training requirements of this subsection is initially hired after the training has been provided for the school year, the local district shall provide materials on how to respond to an active shooter situation.

(b) The requirements of this subsection shall also apply to public charter schools as a health and safety requirement under KRS 160.1592(1).

(8) (a) The Kentucky Department of Education shall develop and maintain a list of approved comprehensive evidence-informed trainings on child abuse and neglect prevention, recognition, and reporting that encompass child physical, sexual, and emotional abuse and neglect.

(b) The trainings shall be Web-based or in-person and cover, at a minimum, the following topics:

1. Recognizing child physical, sexual, and emotional abuse and neglect;

2. Reporting suspected child abuse and neglect in Kentucky as required by KRS 620.030 and the appropriate documentation;

3. Responding to the child; and

4. Understanding the response of child protective services.

(c) The trainings shall include a questionnaire or other basic assessment tool upon completion to document basic knowledge of training components.

(d) Each local ***board of education*** ~~[school board]~~ shall adopt one (1) or more trainings from the list approved by the Department of Education to be implemented by schools.

(e) All current school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district shall complete the implemented training or trainings by January 31, 2017, and then every two (2) years after.

(f) All school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district hired after January 31, 2017, shall complete the implemented training or trainings within ninety (90) days of being hired and then every two (2) years after.

(g) Every public school shall prominently display the statewide child abuse hotline number administered by the Cabinet for Health and Family Services, and the National Human Trafficking Reporting Hotline number administered by the United States Department for Health and Human Services.

(9) ~~[(8)]~~ The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.

(10) ~~[(9)]~~ The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;

(b) Plan specific instructional strategies to teach at-risk students;

(c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;

(d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and

(e) Significantly reduce the dropout rate of all students.

(11) ~~[(10)]~~ The department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

(12) ~~[(11)]~~ The department shall annually provide to the oversight council established in KRS 15A.063, the information received from local schools pursuant to KRS 158.449.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "School counselor" means an individual who holds a valid school counselor certificate issued in accordance with the administrative regulations of the Education Professional Standards Board;

(b) "School-based mental health services provider" means a licensed or certified school counselor, school psychologist, school social worker, or other qualified mental health professional as defined in KRS 202A.011; and

(c) "Trauma-informed approach" means incorporating principles of trauma awareness and trauma-informed practices, as recommended by the federal Substance Abuse and Mental Health Services Administration, in a school in order to foster a safe, stable, and understanding learning environment for all students and staff and ensuring that all students are known well by at least one (1) adult in the school setting.

(2) The General Assembly recognizes that all schools must provide a place for students to feel safe and supported to learn throughout the school day, and that any trauma a student may have experienced can have a significant impact on the ability of a student to learn. The General Assembly directs all public schools to adopt a trauma-informed approach to education in order to better recognize, understand, and address the learning needs of students impacted by trauma and to foster a learning environment where all students, including those who have been traumatized, can be safe, successful, and known well by at least one (1) adult in the school setting.

(3) (a) Beginning July 1, 2021 or as funds and qualified personnel become available, each school district and each public charter school shall employ at least one (1) school counselor in each school with the goals of having one (1) school counselor for every two hundred fifty (250) students and the school counselor spending sixty percent (60%) or more of his or her time in direct services to students.

(b) A school counselor or school-based mental health services provider at each school shall facilitate the creation of a trauma-informed team to identify and assist students whose learning, behavior, and relationships have been impacted by trauma. The trauma-informed team may consist of school administrators, school counselors, school-based mental health services providers, family resource and youth services coordinators, school nurses, and any other school or district personnel.

(c) Each school counselor or school-based mental health services provider providing services pursuant to this section, and the trauma-informed team members described in paragraph (b) of this subsection, shall provide training, guidance, and assistance to other administrators, teachers, and staff on:

1. Recognizing symptoms of trauma in students;

2. Utilizing interventions and strategies to support the learning needs of those students; and

3. Implementing a plan for a trauma-informed approach as described in subsection (5) of this section.

(d) 1. School districts may employ or contract for the services of school-based mental health services providers to assist with the development and implementation of a trauma-informed approach and the development of a trauma-informed team pursuant to this subsection and to enhance or expand student mental health support services as funds and qualified personnel become available.

2. School-based mental health services providers may provide services through a collaboration between two (2) or more school districts or between school districts and educational cooperatives or any other public or private entities including but not limited to local or regional mental health day treatment programs.

(e) No later than November 1, 2019, and each subsequent year, the local school district superintendent shall report to the department the number and placement of school counselors in the district. The report shall include the source of funding for each position, as well as a summary of the job duties and work undertaken by each counselor and the approximate percent of time devoted to each duty over the course of the year.

(4) On or before July 1, 2020, the Department of Education shall make available a toolkit that includes guidance, strategies, behavioral interventions, practices, and techniques to assist school districts and public charter schools in developing a trauma-informed approach in schools.

(5) On or before July 1, 2021, each local board of education and board of a public charter school shall develop a plan for implementing a trauma-informed approach in its schools. The plan shall include but not be limited to strategies for:

(a) Enhancing trauma awareness throughout the school community;

(b) Conducting an assessment of the school climate, including but not limited to inclusiveness and respect for diversity;

(c) Developing trauma-informed discipline policies;

(d) Collaborating with the Department of Kentucky State Police, the local sheriff, and the chief of police to create procedures for notification of student-involved trauma; and

(e) Providing services and programs designed to reduce the negative impact of trauma, support critical learning, and foster a positive and safe school environment for every student.

➔Section 17. KRS 70.062 is amended to read as follows:

(1) The sheriff in each county is encouraged to receive training on issues pertaining to school and student safety, and shall be invited to meet annually with local school superintendents to discuss emergency response plans and emergency response concerns.

(2) The sheriff in each county is encouraged to collaborate with the local school district on policies and procedures for communicating to the school district any instances of student-involved trauma.

➔Section 18. KRS 95.970 is amended to read as follows:

(1) The chief of police in each city is encouraged to receive training on issues pertaining to school and student safety and shall be invited to meet annually with local superintendents to discuss emergency response plans and emergency response concerns.

(2) The chief of police in each city is encouraged to collaborate with the local school district on policies and procedures for communicating to the school district any instances of student-involved trauma.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Kentucky State Police is encouraged to receive training on issues pertaining to school and student safety and shall be invited to meet annually with local superintendents to discuss emergency response plans and emergency response concerns.

(2) The Department of Kentucky State Police is encouraged to collaborate with local school districts on policies and procedures for communicating to the school district any instances of student-involved trauma.

➔Section 20. KRS 508.078 is amended to read as follows:

(1) A person is guilty of terroristic threatening in the second degree when, other than as provided in KRS 508.075, he or she intentionally:

(a) With respect to a school function, threatens to commit any act likely to result in death or serious physical injury to any student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education, or to any other person reasonably expected to lawfully be on school property or at a school-sanctioned activity, if the threat is related to their employment by a school, or work or attendance at school, or a school function. A threat directed at a person or persons or at a school does not need to identify a specific person or persons or school in order for a violation of this section to occur;

(b) ***Makes false statements by any means, including by electronic communication, for the purpose of:***

1. Causing evacuation of a school building, school property, or school sanctioned activity;

2. Causing cancellation of school classes or school sanctioned activity; or

3. Creating fear of serious bodily harm among students, parents, or school personnel;

(c) Makes false statements that he or she has placed a weapon of mass destruction at any location other than one specified in KRS 508.075; or

(d) ~~[(c)]~~ Without lawful authority places a counterfeit weapon of mass destruction at any location other than one specified in KRS 508.075.

(2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.

(3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.

(4) Terroristic threatening in the second degree is a Class D felony.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) By July 1, 2019, the Kentucky Office of Homeland Security, after collaborating with the Center for School Safety, the Kentucky Department of Education, the Department of Criminal Justice Training, and the Department of Kentucky State Police, shall make available to each local school district an anonymous reporting tool that allows students, parents, and community members to anonymously supply information concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. The reporting tool shall be accessible at least by telephone call, electronic e-mail, and a mobile device application.

(2) The reporting tool shall notify the reporting individual of the following:

(a) The reporting individual may supply the information anonymously; and

(b) If the individual chooses to disclose his or her identity, that information shall be shared with the appropriate law enforcement agency and school officials. Law enforcement and school officials shall be required to maintain the information as confidential.

(3) Information reported using the tool shall immediately be sent to the administration of each school district affected and the law enforcement agencies responsible for protection of those school districts, including but not limited to the local sheriff's office, the local city police department, and the Kentucky State Police.

(4) Law enforcement dispatch centers, school districts, schools, and other entities identified by the Kentucky Office of Homeland Security shall be made aware of the reporting tool.

(5) The Kentucky Office of Homeland Security, in collaboration with the Center for School Safety, the Kentucky Department of Education, the Department of Criminal Justice Training, and the Department of Kentucky State Police, shall develop and provide a comprehensive training and awareness program on the use of the anonymous reporting tool.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The superintendent of each local school district shall require the principal of each school within the district to provide written notice to all students, parents, and guardians of students within ten (10) days of the first instructional day of each school year of the provisions of KRS 508.078 and potential penalties under KRS 532.060 and 534.030 upon conviction.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The board of directors of any public school district foundation, or foundation formed exclusively to benefit a particular public school, organized as a nonstock, nonprofit corporation under KRS Chapter 273 and that is either in existence on the effective date of this Act or incorporated after the effective date of this Act, may accept gifts or donations that are restricted by the grantor to be used in furtherance of lawful school safety, security, and student health purposes to the extent allowed by applicable federal tax laws. The board of directors shall use gifts or donations exclusively for the purpose for which they are granted.

(2) The General Assembly hereby finds and declares that private financial and philanthropic support of public school districts by all members of the community fosters greater student success, safety, and wellbeing. To advance these goals, the General Assembly hereby encourages the organization of foundations to support public school districts in any district for which no foundation exists on the effective date of this Act, under KRS Chapter 273 relating to nonstock, nonprofit corporations.

(3) Pursuant to KRS 160.580, a local board of education may directly accept gifts or donations that are restricted by the grantor to be used in furtherance of lawful school safety, security, and student health purposes to the extent allowed by applicable laws and shall use any accepted gift or donation for the purpose for which it was granted.

➔Section 24. Sections 1 to 23 of this Act shall be known and may be cited as the School Safety and Resiliency Act.

➔Section 25. The Office of Education Accountability is directed to conduct a study on the actual usage of school guidance counselors' time in schools. The Office of Education Accountability shall report its findings to the Interim Joint Committee on Education no later than December 1, 2019.

➔Section 26. Whereas school safety is the top priority for the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 11, 2019.

CHAPTER 6

(HB 118)

AN ACT relating to occupational licensure.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

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

(1) "Default" means the failure to repay a loan according to the terms agreed to in the promissory note;

(2) "Delinquency" means the failure to make loan payments when they are due;

(3) "License" means any license, permit, certificate, registration, or other means required to engage in an occupation that is granted or issued by the Commonwealth of Kentucky, its agents, or political subdivisions before a person may pursue, practice, or engage in any occupation;

(4) "Licensing authority" means the person, board, commission, or department of the Commonwealth of Kentucky, its agencies, or political subdivisions, responsible by law for the licensing of persons for occupations;

(5) "Scholarship" means an award of financial aid for a student to further the student's education; and

(6) "Student loan" means a federally-guaranteed or state-guaranteed loan for the purposes of postsecondary education.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

(1) For any person who is in default or delinquent in the payment of his or her student loan:

(a) The licensing authority that governs the person's occupation shall not suspend or revoke the license it has issued to that person solely on the basis of the default or delinquency; and

(b) That person is encouraged to contact the appropriate student loan servicer to establish a voluntary pay agreement for the student loan.

(2) For any person who is in default or delinquent in satisfying the requirements of his or her work-conditional scholarship, the licensing authority that governs the person's occupation shall not suspend or revoke the license it has issued to that person solely on the basis of the default or delinquency.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 3 of this Act is to ensure that hard-working Americans keep their occupational licenses while struggling to pay off student loan debt, keeping them out of welfare, out of poverty, and in the workforce.

➔Section 4. KRS 164A.240 is amended to read as follows:

(1) (a) As used in this section, the term "eligible borrower" means a student, a former student, or the parent of a dependent student or former student, who demonstrates an intention and capacity to repay an educational loan and meets the loan criteria established by the promulgation of administrative regulations by the corporation.

(b) Notwithstanding KRS 164A.020, with respect to any educational loan made or financed under this section, and any bonds or notes of the corporation to finance educational loans under this section, as used in KRS 164A.010 to 164A.240, the term:

1. "Disposable pay" means the amount remaining of a borrower's employment earnings after the deduction of all amounts withheld as required by law;

2. "Eligible institution" shall be deemed to include any educational institution approved by the corporation;

3. "Eligible lender" shall be deemed to include any financial institution approved by the corporation; and

4. "Insured student loan" or "student loan" shall be deemed to include any educational loan.

(2) (a) In addition to the authority granted by KRS 164A.010 to 164A.240, the corporation is authorized to:

1. Establish, finance, and operate educational loan programs deemed necessary by the Kentucky Higher Education Assistance Authority to make or cause to be made educational loans to meet the financial needs of eligible borrowers;

2. Exercise any of its powers with respect to educational loans pursuant to KRS 164A.010 to KRS 164A.240; and

3. Establish an administrative garnishment process for the collection of defaulted educational loans and promulgate regulations pursuant to KRS Chapter 13A pertaining to the process. The process shall begin no sooner than one hundred eighty (180) days after the borrower fails to make payments on the debt that has been due and owing. The process shall limit garnishment to no more than ten percent (10%) of the disposable pay of the defaulted borrower and ensure that the borrower's due process rights are protected.

(b) The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders, and eligible institutions. The educational loan programs may provide for either the making of educational loans to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.

(3) The corporation may promulgate administrative regulations to implement the provisions of KRS 164A.010 to 164A.240.

(4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.240, except that KRS 164A.080(3) shall not apply to any loans and KRS 164A.160 shall not apply to any bonds or notes issued to fund loans authorized in this section. The proceeds of the bonds or notes used for the educational loan programs may be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(5) The corporation may establish reserve funds or replacement funds in connection with the issuance of bonds and notes for educational loan purposes as determined to be necessary by the board to enable the corporation to accomplish its proper public purposes.

(6) (a) The maximum annual loan amount shall not exceed:

1. The costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution;

2. The repayment amount of loans to fund the borrower's cost; or

3. A lesser amount established by the board.

(b) The loan proceeds shall be used by the eligible borrower solely for these purposes.

(7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.

(8) The Kentucky Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.

(9) A person under the age of eighteen (18) years shall be deemed to have full capacity to act and shall have all rights, powers, privileges, and obligations of a person of full age for the purpose of applying for, receiving, and repaying educational loans authorized pursuant to this section. Notwithstanding any other statute to the contrary, a repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the educational loan.

(10) The corporation shall establish the interest rates and other terms and conditions for educational loans in a manner that it determines is financially sound. No provision of any other law of the Commonwealth of Kentucky that limits the rate or amount of interest payable on a loan shall apply to an educational loan authorized by this section.

(11) A loan made pursuant to this section shall be governed by Kentucky law.

(12) ~~[KRS 164.772,]~~KRS 164.774~~[,]~~ and KRS 131.565 are applicable to loans made pursuant to this section.

➔Section 5. The following KRS section is repealed:

164.772 Default in repayment obligation under financial assistance program -- Professional licensing and certification -- Notification.

➔Section 6. Sections 1 to 3 of this Act shall be known and may be cited as the "Keep Americans Working Act of 2019."

Signed by Governor March 11, 2019.

CHAPTER 7

(HB 133)

AN ACT relating to mechanical systems.

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

➔Section 1. KRS 198B.658 is amended to read as follows:

(1) An applicant for a master heating, ventilation, and air conditioning contractor's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;

(c) 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades as a journeyman heating, ventilation, and air conditioning mechanic for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor;~~[or]~~

2. Have been regularly and principally employed or engaged in the practice of heating, ventilation, and air conditioning contracting as a master heating, ventilation, and air conditioning contractor, or equivalent thereof, for not less than two (2) years in Kentucky or in a jurisdiction other than Kentucky, as demonstrated by verifiable documentation; ***or***

3. Have been regularly and principally licensed and employed as a mechanical engineer in the Commonwealth of Kentucky, or a jurisdiction other than Kentucky, for not less than two (2) years, as demonstrated by verifiable documentation;

(d) Have passed an examination prescribed by the department to determine the applicant's competency to practice heating, ventilation, and air conditioning contracting; and

(e) Have paid a fee as established in administrative regulations promulgated by the department.

(2) An applicant for a journeyman heating, ventilation, and air conditioning mechanic's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;

(c) 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor; or

2. Have been regularly and principally employed or engaged in the performance of heating, ventilation, and air conditioning work for not less than two (2) years in Kentucky or in a jurisdiction other than Kentucky, as demonstrated by verifiable documentation;

(d) Have passed an examination prescribed by the department to determine the applicant's competency to install, maintain, and repair heating and cooling systems, heating and cooling service, burner service, and hydronic systems; and

(e) Have paid a fee as established in administrative regulations promulgated by the department.

(3) If an applicant has obtained, while exempt from licensure under 198B.674(2), (7), (8), (10), (13), or (14), work experience that the department determines to be equivalent to the requirements of subsection (1)(c) or (2)(c) of this section, that experience may be considered as equivalent to one (1) year of employment toward the licensure requirements for a master heating, ventilation, and air conditioning contractor or journeyman heating, ventilation, and air conditioning mechanic, as applicable, not to exceed one (1) year.

(4) (a) The department shall issue an apprentice heating, ventilation, and air conditioning mechanic's certificate to any person who registers as an apprentice with the department.

(b) The department shall establish by administrative regulation the minimum number of hours of experience required by apprentices and shall maintain an apprentice register to credit an apprentice for hours worked under the supervision of a master heating, ventilation, and air conditioning contractor and journeyman heating, ventilation, and air conditioning mechanic. Experience gained under the supervision of a Kentucky licensed master heating, ventilation, and air conditioning contractor while registered as an apprentice with the Kentucky Labor Cabinet, Department of Workplace Standards, in cooperation with the United States Department of Labor, Bureau of Apprenticeship and Training shall be accepted toward the two (2) year experience requirement for a journeyman heating, ventilation, and air conditioning mechanic license.

(c) The apprentice register shall include the name, address, Social Security number, employer, and dates of employment of the apprentice.

(d) The apprentice shall notify the department in writing of any change in address or employer.

(e) Apprentices and pre-apprentices shall not be required to pay a fee to obtain a certificate of registration or to renew a registration.

(5) The satisfactory completion of one (1) academic year of a department-approved curriculum or one (1) year of professional training in heating, ventilation, and air conditioning work may be considered as equivalent to one (1) year of employment toward the licensure requirements for a journeyman heating, ventilation, and air conditioning mechanic, not to exceed one (1) year.

(6) The satisfactory completion of one (1) academic year of teaching experience in a department-approved or state-approved technical education program in heating, ventilation, and air conditioning shall be considered as equivalent to one (1) year of employment, as required by subsection (1)(c) or (2)(c) of this section. No more than one (1) year of approved teaching experience may be used in meeting the requirements of subsection (1)(c) or (2)(c) of this section.

➔Section 2. KRS 198B.660 is amended to read as follows:

(1) ~~[(a) Applications for examination shall be in writing and shall contain all information required by the department. Applications shall be filed not less than forty-five (45) days prior to the examination date.~~

~~(b) Not less than ten (10) days prior to an examination date, the department shall send written notice of the date, hour, and place of the examination to each applicant for licensure or certification.~~

~~(c)]~~Each application for licensure or certification shall be accompanied by a nonrefundable application fee.

(2) Examinations shall be given at least two (2) times during each calendar year at those times and places within the Commonwealth prescribed by the department. An applicant shall not take an examination until the examination fee is paid.

(3) Notice of passing or failing an examination shall be provided to each applicant as soon as practicable.

➔Section 3. KRS 198B.6673 is amended to read as follows:

(1) The department shall promulgate administrative regulations to establish a reasonable schedule of fees to implement the program. The fees shall not exceed the actual costs for the administration of the program. The department shall also establish heating, ventilation, and air conditioning inspection protocols that ensure timely inspections and minimal interruption to the construction process.

(2) The department, upon the request of any individual local governing entity or combination of entities with existing heating, ventilation, and air conditioning permitting and inspection programs as of January 1, 2007, shall authorize them to administer, carry out, and enforce the administrative regulations of the department relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of these functions. Nothing in KRS 198B.6671 to 198B.6678 shall prohibit these entities from continuing to include major repairs or substantial alterations to a heating, ventilation, or air conditioning system within their permitting and inspection program in the absence of a state requirement, if major repairs or substantial alterations were included in the entities' inspection program prior to January 1, 2007. The department may authorize any other individual local government entities or combination of entities to administer, carry out, and enforce the administrative regulations of the department relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of those functions. When authorization is granted, the department shall enter into contractual arrangements with the local governing entities, which shall remain in effect as long as the local entity continues to operate its program pursuant to guidelines adopted by the department. A heating, ventilation, and air conditioning permit issued by an authorized local governing entity shall be considered a permit issued by the department, and all fees collected by the authorized local government related to the same shall be retained by that local government.

(3) Any local governing entity enforcing the permitting and inspection requirements of KRS 198B.650 to 198B.689 pursuant to subsection (2) of this section may appoint and fix the compensation of the local governing entity's heating, ventilation, and air conditioning inspectors. No person shall perform the duties of a heating, ventilation, and air conditioning inspector unless he or she has at least six (6) years' experience as a licensed heating, ventilation, and air conditioning journeyman mechanic or a licensed master heating, ventilation, and air conditioning contractor, unless he or she is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of employment, the heating, ventilation, and air conditioning inspector shall be licensed or certified in accordance with KRS 198B.650 to 198B.689***, or become certified within twelve (12) months of employment***.

(4) No local governing entity shall impose any other additional heating, ventilation, and air conditioning inspection or permit requirements, or establish any local inspection or permitting program, unless those provisions were in place before January 1, 2007.

➔Section 4. KRS 198B.6678 is amended to read as follows:

(1) The department shall appoint and assign heating, ventilation, and air conditioning inspectors to each county subject to the provisions of KRS 198B.650 to 198B.689 and in numbers sufficient to implement the provisions of KRS 198B.650 to 198B.689.

(2) No person shall be appointed as a heating, ventilation, and air conditioning inspector unless he or she has at least six (6) years' experience as a licensed heating ventilation, and air conditioning journeyman mechanic or a licensed master heating, ventilation, and air conditioning contractor, unless he or she is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of his or her appointment, the inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689***, or become certified within twelve (12) months of employment***.

Signed by Governor March 11, 2019.

CHAPTER 8

(HB 156)

AN ACT relating to insurance.

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

➔Section 1. KRS 304.9-080 is amended to read as follows:

(1) An individual or business entity shall not sell, solicit, or negotiate insurance in this state unless duly licensed as the appropriate insurance producer for that line of authority in accordance with this subtitle or Subtitle 10 of this chapter.

(2) ***Except as provided in Section 2 of this Act,*** no individual or business entity shall in this state be, act as, or hold himself, herself, or itself out as an adjuster unless then licensed as an adjuster.

(3) No individual or business entity shall in this state be, act as, or hold himself, herself, or itself out as a consultant unless then licensed as a consultant. No consultant shall act as a consultant with respect to any kind of insurance unless duly licensed as a consultant for that line of authority.

(4) Except as provided in KRS 304.9-410 and 304.9-270(4), no agent shall place, and no insurer shall accept, any insurance with any insurer as to which the agent does not then hold a license and appointment as agent under this subtitle.

(5) A rental vehicle agent or rental vehicle managing employee shall not place, and an insurer shall not accept, any insurance with any insurer as to which the licensee does not then hold a license and appointment under this subtitle.

(6) A travel retailer, its employee, or its representative shall not offer and disseminate travel insurance, and an insurer shall not accept any travel insurance, for which the limited lines travel insurance producer does not then hold a license and appointment pursuant to KRS 304.9-475.

(7) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

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

(1) ***Except as provided in this section,*** no person shall in this state act as or hold himself, herself, or itself out to be an independent, staff, or public adjuster unless then licensed by the department as an independent, staff, or public adjuster.

(2) An individual applying for a resident independent, staff, or public adjuster license shall make application to the commissioner on the appropriate uniform individual application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual to be licensed:

(a) Is at least eighteen (18) years of age;

(b) Is eligible to designate Kentucky as his or her home state;

(c) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;

(d) Has not committed any act that is a ground for probation or suspension, revocation, or refusal of a license as set forth in KRS 304.9-440;

(e) Has successfully passed the examination for the adjuster license and the applicable line of authority for which the individual has applied;

(f) Has paid the fees established by the commissioner pursuant to KRS 304.4-010; and

(g) Is financially responsible to exercise the license.

(3) (a) To demonstrate financial responsibility, a person applying for a public adjuster license shall obtain a bond or irrevocable letter of credit prior to issuance of a license and shall maintain the bond or letter of credit for the duration of the license with the following limits:

1. A surety bond executed and issued by an insurer authorized to issue surety bonds in Kentucky, which bond shall:

   a. Be in the minimum amount of twenty thousand dollars ($20,000);

   b. Be in favor of the state of Kentucky and shall specifically authorize recovery of any person in Kentucky who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair trade practices in his or her capacity as a public adjuster; and

   c. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination; or

2. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit shall:

   a. Be in the minimum amount of twenty thousand dollars ($20,000);

   b. Be subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and

   c. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination.

(b) The commissioner may ask for evidence of financial responsibility at any time he or she deems relevant.

(c) The public adjuster license shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired and shall be promptly surrendered to the commissioner without demand.

(4) A business entity applying for a resident independent or public adjuster license shall make application to the commissioner on the appropriate uniform business entity application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:

(a) Is eligible to designate Kentucky as its home state;

(b) Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and regulations of Kentucky;

(c) Has not committed an act that is a ground for probation or suspension, revocation, or refusal of an independent or public adjuster's license as set forth in KRS 304.9-440; and

(d) Has paid the fees established by the commissioner pursuant to KRS 304.4-010.

(5) The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.

(6) Unless denied licensure pursuant to KRS 304.9-440, a person or business entity who has met the requirements of subsections (2) to (5) of this section shall be issued an independent, staff, or public adjuster license.

(7) An independent or staff adjuster may qualify for a license in one (1) or more of the following lines of authority:

(a) Property and casualty;

(b) Workers' compensation; or

(c) Crop.

(8) Notwithstanding any other provision of this subtitle, an individual who is employed by an insurer to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments, shall not be required to be licensed as a staff adjuster.

(9) A public adjuster may qualify for a license in one (1) or more of the following lines of authority:

(a) Property and casualty; or

(b) Crop.

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

(a) An individual who is sent into Kentucky on behalf of an insurer for the sole purpose of investigating or making adjustment of a particular loss resulting from a catastrophe, or for the adjustment of a series of losses resulting from a catastrophe common to all losses;

(b) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;

(c) A person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed independent adjuster;

(d) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments;

(e) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representatives;

(f) A licensed health care provider or its employee who provides managed care services as long as the services do not include the determination of compensability;

(g) A health maintenance organization or any of its employees or an employee of any organization providing managed care services as long as the services do not include the determination of compensability;

(h) A person who settles only reinsurance or subrogation claims;

(i) An officer, director, manager, or employee of an authorized insurer, surplus lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal insurer;

(j) A United States manager of the United States branch of an alien insurer;

(k) A person who investigates, negotiates, or settles claims arising under a life, accident and health, or disability insurance policy or annuity contract;

(l) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;

(m) A licensed agent, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer, to whom claim authority has been granted by the insurer; or

(n) A person who:

1. Is an employee of a licensed independent adjuster or an employee of an affiliate that is a licensed independent adjuster or is supervised by a licensed independent adjuster, if there are no more than twenty-five (25) persons under the supervision of one (1) licensed individual independent adjuster or licensed agent who is exempt from licensure pursuant to paragraph (m) of this subsection;

2. Collects claim information from insureds or claimants;

3. Enters data into an automated claims adjudication system; and

4. Furnishes claim information to insureds or claimants from the results of the automated claims adjudication system.

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

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

(a) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;

(b) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(c) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts;~~[or]~~

(d) A licensed health care provider or its employee who prepares or files a health claim form on behalf of a patient***; or***

(e) An employee or agent of an insurer adjusting claims relating to food spoilage with respect to residential property insurance in which the amount of coverage for the applicable type of loss is contractually limited to one thousand dollars ($1,000) or less.

(12) ***Notwithstanding any other provision of this subtitle, a license as a staff adjuster shall not be required of an employee or agent of an insurer adjusting claims relating to food spoilage with respect to residential property insurance in which the amount of coverage for the applicable type of loss is contractually limited to one thousand dollars ($1,000) or less.***

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

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

(a) An insurer shall notify the commissioner by submitting an application for temporary emergency registration of each individual not already licensed in the state where the catastrophe has been declared, who will act as an emergency independent adjuster on behalf of the insurer;

(b) A person who is otherwise qualified to adjust claims, but who is not already licensed in the state, may act as an emergency independent or staff adjuster and adjust claims if, within five (5) days of deployment to adjust claims arising from the catastrophe, the insurer notifies the commissioner by providing the following information, in a format prescribed by the commissioner:

1. The name of the individual;

2. The Social Security number of the individual;

3. The name of the insurer that the independent or staff adjuster will represent;

4. The catastrophe or loss control number;

5. The catastrophe event name and date; and

6. Any other information the commissioner deems necessary; and

(c) An emergency independent or staff adjuster's registration shall remain in force for a period not to exceed ninety (90) days, unless extended by the commissioner.

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

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

2. The person has submitted the proper request for licensure, and has paid the fees required by KRS 304.4-010;

3. The person has submitted, in a form or format prescribed by the commissioner, the uniform individual application; and

4. The person's designated home state issues nonresident independent, staff, or public adjuster licenses to persons of Kentucky on the same basis.

(b) The commissioner may verify the independent, staff, or public adjuster's licensing status through any appropriate database or may request certification of good standing.

(c) As a condition to the continuation of a nonresident adjuster license, the licensee shall maintain a resident adjuster license in his, her, or its home state.

(d) The nonresident adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner if the resident adjuster license terminates for any reason, unless the termination is due to the adjuster being issued a new resident independent or public adjuster license in his, her, or its new home state. If the new resident state does not have reciprocity with Kentucky, the nonresident adjuster license shall terminate.

➔Section 3. KRS 304.9-436 is amended to read as follows:

(1) An authorized insurer shall not do business in Kentucky with an adjuster who is unlicensed in violation of KRS 304.9-080 and 304.9-430. This section shall not apply to transactions between an authorized insurer and persons providing adjusting services pursuant to KRS 304.9-430(10), (11), ***(12),*** and ***(14)***~~[(13)]~~.

(2) An authorized insurer shall not do business in Kentucky with an administrator who is not licensed in accordance with KRS 304.9-052. This subsection shall not apply to transactions between an authorized insurer and persons providing administrator services pursuant to KRS 304.9-051.

Signed by Governor March 11, 2019.

CHAPTER 9

(HB 250)

AN ACT relating to the Commonwealth postsecondary education prepaid tuition trust fund.

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

➔Section 1. KRS 164A.700 is amended to read as follows:

As used in KRS 164A.700 to 164A.709, unless the context requires otherwise:

(1) "Academic year" means the time period specified by each eligible educational institution;

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority acting in the capacity of the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund;

(3) "Eligible educational institution" means an institution defined in the Internal Revenue Code of 1986, as amended, 26 U.S.C. sec. 529(e)(5);

(4) "Fund" means the prepaid tuition payment fund created in KRS 164A.701 and known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund" or "Kentucky's Affordable Prepaid Tuition" (KAPT);

(5) "Prepaid tuition" means the amount of tuition estimated by the board for the tuition plan under the prepaid tuition contract;

(6) "Prepaid tuition academic year conversion" means the difference between the amount of prepaid tuition required in the original prepaid tuition contract and the amount of prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year;

(7) "Prepaid tuition academic year conversion shortfall" means the amount by which the prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year exceeds the amount of prepaid tuition required in the original prepaid tuition contract;

(8) "Prepaid tuition account" means the account for a qualified beneficiary as specified in the prepaid tuition contract;

(9) "Prepaid tuition contract" means the contract entered into by the board and the purchaser for the purchase of prepaid tuition for a qualified beneficiary to attend any eligible educational institution as provided in KRS 164A.700 to 164A.709;

(10) "Prepaid tuition conversion" means the difference between the value of a prepaid tuition account and the tuition at an eligible educational institution;

(11) "Prepaid tuition conversion shortfall" means the amount by which the actual tuition cost at an eligible educational institution exceeds the amount of the value of a prepaid tuition account;

(12) "Purchaser" means a person, corporation, association, partnership, or other legal entity who enters into a prepaid tuition contract;

(13) "Qualified beneficiary" means a designated beneficiary, as defined in 26 U.S.C. sec. 529(e)(1), who is:

(a) A Kentucky resident designated as beneficiary at the time a purchaser enters into a prepaid tuition contract; or

(b) A nonresident designated at the time a purchaser enters into a prepaid tuition contract who intends to attend an eligible institution in Kentucky; or

(c) A new beneficiary, in the case of a change of beneficiaries under provisions of KRS 164A.707; or

(d) An individual receiving a scholarship in the case of a prepaid tuition contract purchased by a state or local government or agency or instrumentality thereof or an organization described in 26 U.S.C. sec. 501(c)(3), and exempt from federal income taxation pursuant to 26 U.S.C. sec. 501(a) as part of a scholarship program offered by the government entity or the organization;

(14) "Qualified postsecondary education expenses" means qualified higher education expenses as defined in 26 U.S.C. sec. 529(e)(3);

(15) "Tuition" means the prevailing tuition and all mandatory fees charged as a condition of full-time enrollment in an undergraduate program for an academic year for a qualified beneficiary to attend an eligible educational institution;

(16) "Tuition Account Program Office" or "office" means the office in the Kentucky Higher Education Assistance Authority that is responsible for administering the prepaid tuition program and its accounts;

(17) "Tuition plan" means a tuition plan approved by the board and provided under a prepaid tuition contract;

(18) "Utilization period" means***:***

(a) For a prepaid tuition account depleted or terminated prior to the effective date of this Act, the period of time in which a prepaid tuition contract is to be used beginning with the projected college entrance year and continuing for the number of prepaid tuition years purchased; ***or***

(b) For a prepaid tuition account not depleted or terminated as of the effective date of this Act, the period of time in which a prepaid tuition contract is to be used beginning with the projected college entrance year and continuing for eight (8) years; and

(19) "Value of a prepaid tuition account" means the amount which the fund is obligated to pay for a prepaid tuition contract, when a purchaser has paid it in full, that is calculated by multiplying the plan tuition amount for the academic period by the number of prepaid tuition years purchased, less any portion previously paid; except, under a tuition plan for private colleges and universities, tuition shall be calculated based on the same percentage that University of Kentucky tuition is increased from the year the prepaid tuition contract is purchased to the year of payment.

➔Section 2. KRS 164A.705 is amended to read as follows:

(1) The prepaid tuition contract entered into by the purchaser and the board shall constitute an irrevocable pledge and guarantee by the fund to pay for the tuition of a qualified beneficiary upon acceptance and enrollment at an eligible educational institution in accordance with the tuition plan purchased.

(2) A board member or any employee of the Tuition Account Program Office or the Kentucky Higher Education Assistance Authority shall not be subject to any personal liability by reason of his or her issuance or execution of a prepaid tuition contract under KRS 164A.700 to 164A.709.

(3) Under a tuition plan for private colleges and universities, tuition shall be paid based on the same percentage that University of Kentucky tuition is increased from the year the prepaid tuition contract is purchased to the year of payment.

(4) The purchaser or qualified beneficiary shall pay to the eligible educational institution the amount of any prepaid tuition academic year conversion shortfall and the amount of any prepaid tuition conversion shortfall.

(5) A qualified beneficiary attending an eligible educational institution may apply the value of a prepaid tuition account to a specific academic year at the maximum course load or maximum number of credit hours generally permitted to full-time undergraduates at that institution.

(6) The value of a prepaid tuition account remaining after tuition is paid may be used for other qualified educational expenses under administrative regulations promulgated by the board in compliance with 26 U.S.C. sec. 529. The board may permit the use of the value of a prepaid tuition account for part-time undergraduate enrollment or graduate programs at eligible educational institutions.

(7) During an account's utilization period, the value of the prepaid tuition account shall increase consistent with tuition rates for the applicable tuition plan and academic year. If all tuition benefits have not been used at the conclusion of this period, ***no additional value shall be added to the prepaid tuition account, except that, for an account with a utilization period defined in subsection (18)(a) of Section 1 of this Act,*** the account value shall increase at a rate of three percent (3%) per annum or the applicable tuition plan value increase, whichever is less, for a period not to exceed two (2) additional years.~~[No additional value shall be added to a prepaid tuition account after two (2) years past the utilization period.]~~

(8) If a qualified beneficiary attends an eligible educational institution for which payment of tuition is not guaranteed by the fund in whole or in part, and if the cost of tuition exceeds the value of a prepaid tuition account, the fund shall have no responsibility to pay the difference. If the value of a prepaid tuition account exceeds the cost of tuition, the excess may be used for other qualified postsecondary education expenses as directed by the purchaser.

(9) The value of a prepaid tuition account shall not be used in calculating personal asset contribution for determining eligibility and need for student loan programs, student grant programs, or other student aid programs administered by any agency of the Commonwealth, except as otherwise may be provided by federal law.

➔Section 3. KRS 164A.709 is amended to read as follows:

(1) A purchaser may terminate a prepaid tuition contract at any time upon written request to the office.

(2) Upon termination of a prepaid tuition contract at the request of a purchaser, the office shall pay from the fund to the purchaser:

(a) The value of the prepaid tuition account or, if the contract has not been paid in full, a pro rata amount calculated according to the portion of the plan that had been paid, if the contract is terminated for the death of the qualified beneficiary or the disability of the qualified beneficiary that, in the opinion of the office, would make attendance by the beneficiary at an eligible educational institution impossible or unreasonably burdensome;

(b) The amounts paid on the purchaser's prepaid tuition contract if the contract is terminated and a request for refund is made before July 1 of the qualified beneficiary's projected college entrance year. The board may determine a rate of interest to accrue for payment on the amount otherwise payable under this paragraph;

(c) ***For a prepaid tuition account terminated after June 30 of the qualified beneficiary's projected college entrance year and prior to the effective date of this Act:***

1. The value of the prepaid tuition account for the 2014-2015 academic year for accounts with a utilization period end date prior to 2012; or

2.~~[(d)]~~ The value of the prepaid tuition account at the end of the account's utilization period plus three percent (3%) per annum for a maximum of two (2) years thereafter, or the applicable tuition plan value increase, whichever is less, for accounts with a utilization period end date of 2012 or later***;***

or

(d) For a prepaid tuition account terminated after June 30 of the qualified beneficiary's projected college entrance year and on or after the effective date of this Act, the value of the prepaid tuition account at the time of termination.

(3) All refunds paid shall be less any benefits previously paid from the plan and any administrative fees as determined by the board. The office may impose a fee upon termination of the account for administrative costs and deduct the fee from the amount otherwise payable under this section.

(4) If a qualified beneficiary is awarded a scholarship that covers tuition costs included in a prepaid tuition contract, the purchaser may request a refund consisting of the amount of the value of the prepaid tuition account, not to exceed the amount of the scholarship.

(5) If the purchaser wishes to transfer funds from the prepaid tuition account to the Kentucky Educational Savings Plan Trust, the purchaser may do so under administrative regulations promulgated by the board and the board of directors of the Kentucky Educational Savings Plan Trust under KRS 164A.325. The transfer amount shall be calculated in the same way a refund is determined in accordance with this section.

(6) If the purchaser wishes to transfer funds from the prepaid tuition account to another qualified tuition program as defined in 26 U.S.C. sec. 529(b)(1), the purchaser may do so under administrative regulations promulgated by the board. The transfer amount shall be calculated in the same way a refund is determined in accordance with this section.

(7) The board may terminate a prepaid tuition contract at any time due to the fraud or misrepresentation of a purchaser or qualified beneficiary with respect to the prepaid tuition contract.

(8) All operations of the Commonwealth postsecondary education prepaid tuition trust fund and the Tuition Account Program Office shall end on June 30, ***2030***~~[2028]~~. On or before that date, any remaining prepaid tuition account funds that have not been utilized, transferred to another qualified tuition program, or refunded upon the request of the purchaser shall be refunded to the purchaser in accordance with subsection (2) of this section.

Signed by Governor March 11, 2019.

CHAPTER 10

(SB 150)

AN ACT relating to carrying concealed weapons.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) Persons age twenty-one (21) or older, and otherwise able to lawfully possess a firearm, may carry concealed firearms or other concealed deadly weapons without a license in the same locations as persons with valid licenses issued under KRS 237.110.

(2) Nothing in this section shall be construed to allow the carrying or possession of any deadly weapon where it is prohibited by federal law.

➔Section 2. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he or she carries concealed a firearm or other deadly weapon on or about his or her person ***in violation of this section***.

(2) Peace officers and certified court security officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) The director of the Division of Law Enforcement in the Department of Fish and Wildlife Resources, conservation officers of the Department of Fish and Wildlife Resources, and policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person

at all times within the Commonwealth of Kentucky, when expressly authorized to do so by law or by the government employing the officer.

(4) Persons~~[, except those specified in subsection (5) of this section,]~~ ***carrying concealed weapons in accordance with Section 1 of this Act or*** licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a ***concealed*** firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of ***Section 1 of this Act or KRS 237.110***~~[that section]~~. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon~~[with a permit]~~ at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person~~[licensed to carry a concealed deadly weapon]~~ from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of ***Section 1 of this Act,*** KRS 237.110***,*** and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110 or 237.138 to 237.142, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:

1. A Commonwealth's attorney or assistant Commonwealth's attorney;
2. A retired Commonwealth's attorney or retired assistant Commonwealth's attorney;
3. A county attorney or assistant county attorney;
4. A retired county attorney or retired assistant county attorney;
5. A justice or judge of the Court of Justice;
6. A retired or senior status justice or judge of the Court of Justice; and
7. A retired peace officer who holds a concealed deadly weapon license issued pursuant to the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C, and KRS 237.138 to 237.142.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of Kentucky State Police.

(6) (a) Except ***as*** provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:

1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
2. An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and
3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(7) (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(8) A loaded or unloaded firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in any enclosed container, compartment, or storage space installed as original equipment in a motor vehicle by its manufacturer, including but not limited to a glove compartment, center console, or seat pocket, regardless of whether said enclosed container, storage space, or compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a loaded or unloaded firearm or ammunition, or both, or other deadly weapon in a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction. This subsection shall not apply to any person prohibited from possessing a firearm pursuant to KRS 527.040.

(9) The provisions of this section shall not apply to a person who carries a concealed deadly weapon on or about his or her person~~[without a license issued pursuant to KRS 237.110]~~:

(a) If he or she is the owner of the property or has the permission of the owner of the property, on real property which he or she or his or her spouse, parent, grandparent, or child owns;

(b) If he or she is the lessee of the property or has the permission of the lessee of the property, on real property which he or she or his or her spouse, parent, grandparent, or child occupies pursuant to a lease; or

(c) If he or she is the sole proprietor of the business, on real property owned or leased by the business.

(10) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

➔Section 3. KRS 237.115 is amended to read as follows:

(1) Except as provided in KRS 527.020, nothing contained in KRS 237.110 ***or Section 1 of this Act*** shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban-county, or charter county government to prohibit the carrying of concealed deadly weapons~~[by licensees]~~ in that portion of a building actually owned, leased, or occupied by that unit of government.

(2) Except as provided in KRS 527.020, the legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons~~[by licensees]~~ in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt

any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.

(3) Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon~~[with a permit]~~ at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

Signed by Governor March 11, 2019.

CHAPTER 11

(HB 69)

AN ACT relating to local investments.

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

➔Section 1. KRS 66.480 is amended to read as follows:

(1) The governing body of a city, county, urban-county, charter county, school district (provided that its general procedure for action is approved by the Kentucky Board of Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, if delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. These investments may be accomplished through repurchase agreements reached with sources including but not limited to national or state banks chartered in Kentucky;

(b) Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(c) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
3. Bank for Cooperatives;
4. Federal Intermediate Credit Banks;
5. Federal Land Banks;
6. Federal Home Loan Banks;
7. Federal National Mortgage Association; and
8. Tennessee Valley Authority;

(d) Certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution ***having a physical presence in Kentucky*** which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations, including surety bonds, permitted by KRS 41.240(4);

(e) Uncollateralized certificates of deposit issued by any bank or savings and loan institution ***having a physical presence in Kentucky*** rated in one (1) of the three (3) highest categories by a ***competent***~~[nationally recognized]~~ rating agency;

(f) Bankers' acceptances for banks rated in one (1) of the three (3) highest categories by a ***competent***~~[nationally recognized]~~ rating agency;

(g) Commercial paper rated in the highest category by a ***competent***~~[nationally recognized]~~ rating agency;

(h) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(i) Securities issued by a state or local government, or any instrumentality of agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a ***competent***~~[nationally recognized]~~ rating agency;~~[and]~~

(j) Shares of mutual funds ***and exchange traded funds***, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;

2. The management company of the investment company shall have been in operation for at least five (5) years; and

3. All of the securities in the mutual fund shall be eligible investments pursuant to this section***;***

(k) Individual equity securities if the funds being invested are managed by a professional investment manager regulated by a federal regulatory agency. The individual equity securities shall be included within the Standard and Poor's 500 Index, and a single sector shall not exceed twenty-five percent (25%) of the equity allocation; and

(l) Individual high-quality corporate bonds that are managed by a professional investment manager that:

1. Are issued, assumed, or guaranteed by a solvent institution created and existing under the laws of the United States;

2. Have a standard maturity of no more than ten (10) years; and

3. Are rated in the three (3) highest rating categories by at least two (2) competent credit rating agencies.

(2) The investment authority provided by subsection (1) of this section shall be subject to the following limitations:

(a) The amount of money invested at any time by a local government or political subdivision in ***any*** one (1)~~[or more]~~ of the categories of investments authorized by subsection (1)(e), (f), (g), ~~[and (i)]~~***(k), and (l)*** of this section shall not exceed twenty percent (20%) of the total amount of money invested by the local government;~~[and]~~

(b) ***The amount of money invested at any one (1) time by a local government or a political subdivision in the categories of investments authorized in subsection (1)(j), (k), and (l) of this section shall not, aggregately, exceed forty percent (40%) of the total money invested;***

(c) No local government or political subdivision shall purchase any investment authorized by subsection (1) ***of this section*** on a margin basis or through the use of any similar leveraging technique***; and***

(d) At the time the investment is made, no more than five percent (5%) of the total amount of money invested by the local governments or political subdivisions shall be invested in any one (1) issuer unless:

1. The issuer is the United States government or an agency or instrumentality of the United States government, or an entity which has its obligations guaranteed by either the United States government or an entity, agency, or instrumentality of the United States government;

2. The money is invested in a certificate of deposit or other interest-bearing accounts as authorized by subsection (1)(d) and (e) of this section;

3. The money is invested in bonds or certificates of indebtedness of this state and its agencies and instrumentalities as authorized in subsection (1)(h) of this section; or

4. The money is invested in securities issued by a state or local government, or any instrumentality or agency thereof, in the United States as authorized in subsection (1)(i) of this section.

(3) The governing body of every local government or political subdivision that invests or reinvests money subject to its control or jurisdiction according to the provisions of subsection (1) of this section shall by January 1, 1995, adopt a written investment policy that shall govern the investment of funds by the local government or political subdivision. The written investment policy shall include but shall not be limited to the following:

(a) A designation of the officer or officers of the local government or political subdivision who are authorized to invest and oversee the investment of funds;

(b) A list of the permitted types of investments;

(c) Procedures designed to secure the local government's or political subdivision's financial interest in the investments;

(d) Standards for written agreements pursuant to which investments are to be made;

(e) Procedures for monitoring, control, deposit, and retention of investments and collateral;

(f) Standards for the diversification of investments, including diversification with respect to the types of investments and firms with whom the local government or political subdivision transacts business;

(g) Standards for the qualification of investment agents which transact business with the local government, such as criteria covering creditworthiness, experience, capitalization, size, and any other factors that make a firm capable and qualified to transact business with the local government or political subdivision; and

(h) Requirements for periodic reporting to the governing body on the status of invested funds.

(4) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be known as county officials, may invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS Chapter 134 and 160.510, as permitted by this section.

(5) The provisions of this section are not intended to impair the power of a county official, city, county, urban-county, charter county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(6) The governing body or county official may delegate the investment authority provided by this section to the treasurer or other financial officer or officers charged with custody of the funds of the local government, and the officer or officers shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(7) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(8) The state local debt officer is authorized and directed to assist county officials and local governments, except school districts, in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request that assistance.

(9) (a) The state local debt officer may create an investment pool for local governments, except school districts, and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by this section. The funds of each local government and county

official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local debt officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his or her own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local debt officer creates an investment pool, he or she shall establish an account in the Treasury for the pool. He or she shall also establish a separate trust and agency account for the purpose of covering management costs, and he or she shall deposit management charges in this account. The state local debt officer may promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings, and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(10) (a) With the approval of the Kentucky Board of Education, local boards of education, or any of them that desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the Kentucky Board of Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his or her own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The Kentucky Board of Education may promulgate administrative regulations governing the operation of the investment pool including but not limited to provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.

(11) As used in this section, "competent rating agency" means a rating agency certified or approved by a national entity that engages in such a process. The certification or approval process shall include but not necessarily be limited to the following elements the subject rating agency must possess:

(a) A requirement for the rating agency to register and provide an annual updated filing;

(b) Record retention requirements;

(c) Financial reporting requirements;

(d) Policies for the prevention of misuse of material nonpublic information;

(e) Policies addressing management of conflicts of interest, including prohibited conflicts;

(f) Prohibited acts practices;

(g) Disclosure requirements;

(h) Any policies, practices, and internal controls required by the national entity; and

(i) Standards of training, experience, and competence for credit analysts.

Became law without Govenor's signature March 18, 2019

CHAPTER 12

(HB 141)

AN ACT relating to the sale or disposition of certain county property.

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

➔Section 1. KRS 67.0802 is amended to read as follows:

(1) A county may sell or otherwise dispose of any of its real or personal property.

(2) Before selling or otherwise disposing of any real or personal property, the county shall make a written determination setting forth and fully describing:

(a) The real or personal property;

(b) Its intended use at the time of acquisition;

(c) The reasons why it is in the public interest to dispose of it; and

(d) The method of disposition to be used.

(3) Real or personal property may be:

(a) Transferred, with or without compensation, to another governmental agency;

(b) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);

(c) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b); or

(d) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4).

(4) If a county receives no bids for the real or personal property, either at public or electronic auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the county. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.

(5) ***(a) Except as provided in paragraph (b) of this subsection,*** any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the county.

(b) Any compensation resulting from the disposal of real or personal property that was acquired by forfeiture under KRS Chapter 218A or purchased using funds restricted under KRS 218A.420(4)(a) shall be transferred to the account used for such forfeiture proceeds and upon transfer shall remain subject to the restrictions of KRS 218A.420(4)(a).

Signed by Governor March 15, 2019.

CHAPTER 13

(HB 154)

AN ACT relating to standards for the operation of golf carts on roadways.

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

➔Section 1. KRS 189.286 is amended to read as follows:

(1) As used in this section:

(a) "Golf cart" means any self-propelled vehicle that:

1. Is designed for the transportation of players or maintaining equipment on a golf course, while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a golf course;

2. Has a minimum of four (4) wheels;

3. Is designed to operate at a speed of not more than thirty-five (35) miles per hour;

4. Is designed to carry not more than six (6) persons, including the driver;

5. Has a maximum gross vehicle weight of two thousand five hundred (2,500) pounds;

6. Has a maximum rated payload capacity of one thousand two hundred (1,200) pounds; and

7. ***Is equipped with the following:***

a. Headlamps;

b. Tail lamps;

c. Stop lamps;

d. Front and rear turn signals;

e. One (1) red reflex reflector on each side as far to the rear as practicable, and one (1) red reflex reflector on the rear;

f. An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;

g. A parking brake;

h. For each designated seating position, a seatbelt assembly that conforms to the federal motor vehicle safety standard provided in 49 C.F.R. sec. 571.209; and

i. A horn that meets the requirements of KRS 189.080~~[Meets the federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. sec. 571.500]~~; and

(b) "Local government" means a city, county, charter county government, urban-county government, consolidated local government, unified local government, or special district.

(2) The governing body of a local government may authorize and regulate the operation of a golf cart on any public roadway under its jurisdiction if the local government adopts an ordinance specifying each roadway that is open for golf cart use.

(3) An ordinance created under subsection (2) of this section shall require that a golf cart operated on a designated public roadway:

(a) Be issued a permit for the golf cart by the local government;

(b) Display a sticker or permit that identifies that the golf cart is allowed to be operated on specific roadways within the local government; and

(c) Be inspected by a certified inspector designated by the county sheriff and certified through the Department of Vehicle Regulation to ensure that the golf cart complies with the requirements of this section. The inspection fee under this paragraph shall not exceed five dollars ($5) with an additional fee not to exceed ten dollars ($10) per trip charged if it becomes necessary for the certified inspector to travel to the site of the golf cart rather than having the golf cart brought to the sheriff's inspection area.

(4) A person may operate a golf cart on a public roadway pursuant to subsection (2) of this section if:

(a) The posted speed limit of the designated public roadway is thirty-five (35) miles per hour or less;

(b) The operator of the golf cart does not cross a roadway at an intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour;

(c) The operator has a valid operator's license in his or her possession;

(d) The golf cart is being operated between sunrise and sunset; and

(e) The golf cart displays a slow-moving vehicle emblem in compliance with KRS 189.820.

(5) A golf cart operating on a public roadway under subsection (2) of this section shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the golf cart at all times of operation on a public roadway.

(6) Any person operating a golf cart on a public roadway under the provisions of this section shall be subject to the traffic regulations of KRS Chapter 189.

(7) A golf cart operating on a public roadway designated by a local government under subsection (2) of this section is not considered to be motor a vehicle and is exempt from:

(a) Title requirements of KRS 186.020;

(b) Vehicle registration requirements of KRS 186.050; and

(c) Emissions compliance certificates pursuant to KRS 224.20-720.

(8) A local government may adopt more stringent local ordinances governing golf cart safety equipment and operation than specified in this section.

(9) The Transportation Cabinet may prohibit the operation of a golf cart on a public roadway designated under subsection (2) of this section that crosses a state-maintained highway under its jurisdiction if it determines that such prohibition is necessary in the interest of public safety.

(10) The provisions of this section shall not apply to a golf cart that is not used on a public roadway except to cross a roadway while following a golf cart path on a golf course.

Signed by Governor March 15, 2019.

CHAPTER 14

(HB 165)

AN ACT relating to fees for air quality.

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

➔Section 1. KRS 224.20-050 is amended to read as follows:

(1) The cabinet, or an air pollution control district created pursuant to KRS Chapters 77 and 224, may promulgate regulations adopting fees for the cost of administering the air quality program authorized by this chapter, as mandated under~~[Title V of]~~ the Clean Air Act Amendments of 1990 (Public Law 101-549, as amended). Any person who fails to pay ***a***~~[an emission]~~ fee as required by the administrative regulations adopted pursuant to this section shall pay an additional fee equal to fifty percent (50%) of the~~[emission]~~ fee amount, plus interest on the~~[emission]~~ fee amount computed in accordance with Section 6621(a)(2) of the Internal Revenue Code of 1986 (Public Law 99-499, as amended, relating to computation of interest on underpayment of federal taxes).

(2) The cabinet may~~[continue to]~~ use the~~[operating]~~ fee structure~~[based on emissions which has been]~~ implemented by administrative regulations to generate funds to finance the cabinet's ***air quality***~~[operating permit]~~ program. The cabinet's~~[emissions]~~ fee structure shall not generate moneys in excess of the amount authorized in the enacted budget bill.

(3) The ***emissions*** fees shall be~~[uniformly]~~ assessed on each permitted source of regulated air pollutants emitted in the preceding year.~~[For purposes of fee assessments, PM 10 shall be the regulated air pollutant for particulate matter. For the purposes of determining these fees, the cabinet shall assess as a PM 10 factor one-half (1/2) that of the corresponding total suspended particulates factor for haul roads and yard areas until the PM 10 emissions factor is approved by the cabinet;]~~

(4) Moneys generated by ***a***~~[an emissions]~~ fee structure shall be deposited into a separate and distinct interest-bearing account and invested in accordance with administrative regulations promulgated by the State

Investment Commission pursuant to KRS 42.525. Moneys not expended at the end of a fiscal year shall be carried forward to the next fiscal year. Any available balance shall be credited against the ***emissions*** fee required in the succeeding fiscal year, and shall be credited to each source according to the proportion of the total of all emission fees which were paid by that source in a timely manner.

Signed by Governor March 15, 2019.

CHAPTER 15

(HB 196)

AN ACT relating to the Emergency Response Commission.

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

➔Section 1. KRS 39E.030 is amended to read as follows:

(1) The commission shall be composed of not more than twenty-five (25) members and shall be chaired by the director of the Division of Emergency Management of the Department of Military Affairs, who shall also be a member. Other members shall include, but not be limited to, the executive director of the Commission on Fire Protection Personnel Standards and Education or the executive director's designee, representatives of the Energy and Environment Cabinet, the state fire marshal, the Department of Kentucky State Police, the Office of the Attorney General, the Department of Agriculture, affected industry, local government, health services, environmental interests, and other persons who have technical expertise in the emergency response field as the Governor deems appropriate.

(2) Members of the commission shall be appointed by the Governor. All appointments shall be for a term of two (2) years. Members shall serve until their successors are appointed and qualified and shall be eligible for reappointment.

(3) The commission shall meet not less than semi-annually, or as convened by the chairman.

(4) If a member misses three (3) consecutive meetings of the full commission or three (3) meetings in two (2) consecutive years, the position shall be declared vacant by the commission. In these cases, the Governor shall make an appointment to fill the unexpired term.

(5) The presence of ***a simple majority of currently appointed members*** ~~[thirteen (13) members]~~ shall constitute a quorum and actions taken at these meetings shall be considered as actions of the full commission.

(6) Members of the commission shall not receive a salary for serving on the commission, but travel and per diem may be paid if funds are appropriated or otherwise made available for these purposes.

Signed by Governor March 15, 2019.

CHAPTER 16

(HB 201)

AN ACT relating to service of process on nonresidents of this Commonwealth.

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

➔Section 1. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services or goods in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting;

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

   a. The father or mother or both are domiciled in this state;

   b. There is a repeated pattern of intercourse between the father and mother in this state; or

   c. Said intercourse is a tort or a crime in this state; or

9. Making a telephone solicitation, as defined in KRS 367.46951, into the Commonwealth.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made***:***

1. In any manner authorized by the Kentucky Rules of Civil Procedure;

2. On such person, or any agent of such person, in any county in this Commonwealth, where he may be found***;*** ~~[,]~~ or

3. On the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons either by:

1. Sending by certified mail two (2) true copies to the Secretary of State and shall also mail with the summons two (2) attested copies of plaintiff's complaint; or

2. Transmitting an electronically attested copy of the complaint and summons to the Secretary of State via the Kentucky Court of Justice electronic filing system.

(c) The Secretary of State shall, within seven (7) days of receipt thereof in his office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The clerk shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure.

(d) The clerk mailing the summons to the Secretary of State shall mail to him, at the same time, a fee of ten dollars ($10), which shall be taxed as costs in the action. The fee for a summons transmitted electronically pursuant to this subsection shall be transmitted to the Secretary of State on a periodic basis.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Signed by Governor March 15, 2019.

CHAPTER 17

(HB 212)

AN ACT designating the Kentucky Springseat Saddle (Minihan) as the official saddle of the Commonwealth of Kentucky.

WHEREAS, Eugene Minihan, a citizen of Owingsville, Kentucky, and a saddler of exemplary skill, artistry, and vision, developed and sold from a small shop on present-day North Court Street a saddle considered by knowledgeable horsemen as the best riding saddle ever made; and

WHEREAS, from the late 1880s to the time of his death in 1926, Eugene Minihan used a labor-intensive process to splice and join stiff pieces of leather to create a type of hinged saddle tree design, known as the Kentucky Springseat Saddle (Minihan), that was comfortable for both the horse and rider; and

WHEREAS, Eugene Minihan was also known for an elaborate quilting pattern on the saddle seat that used wool stuffed under the fabric to give an elaborate three-dimensional effect; and

WHEREAS, original Minihan saddles, the newest being nearly a century in age, are highly prized by collectors and can still be seen in galleries and exhibit halls that curate riding horse artifacts; and

WHEREAS, Eastern Kentucky University's Department of Anthropology, Sociology, and Social Work is laboring to raise awareness of the importance of horses and horsemen in all aspects of life in Kentucky's Appalachian region;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Kentucky Springseat Saddle (Minihan) is named and designated the official saddle of the Commonwealth of Kentucky.

Signed by Governor March 15, 2019.

CHAPTER 18

(HB 216)

AN ACT relating to the qualifications of employees of the Auditor of Public Accounts.

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

➔Section 1. KRS 43.030 is amended to read as follows:

(1) The Auditor shall appoint for the duration of his ***or her*** own term, subject to removal by ***the Auditor***~~[him]~~ at any time, one (1) assistant auditor of public accounts, who shall be a certified public accountant and who has

been a citizen and resident of the state for at least two (2) years. The assistant auditor shall have direct supervision over all technical work and technical assistants, and shall otherwise aid the Auditor in the performance of his ***or her*** duties. If the Auditor is absent or is rendered incapable of performing his ***or her*** duties, or if a vacancy in the office occurs, the assistant auditor shall perform the duties of Auditor until the necessity therefor ceases to exist. He ***or she*** shall take the constitutional oath.

(2) The Auditor may employ other subordinate personnel subject to the provisions of KRS 12.060. All employees ***with status as defined in KRS 18A.005 who are*** engaged in auditing or investigations shall possess a minimum of a four (4) year college degree. No less than ninety percent (90%) of all employees engaged in financial auditing or financial investigations shall have twenty (20) semester hours or thirty (30) quarter hours of accounting, or alternately, shall be a certified public accountant. Not more than two (2) persons charged with the conduct of audits and investigations may substitute year-for-year responsible experience acceptable to the Personnel Cabinet for the required college education and accounting hours.

(3) The Auditor and his ***or her*** sureties are liable on his ***or her*** official bond for the acts of the assistant auditor and clerks.

(4) Nothing in this section shall be deemed to affect the provisions of KRS 11.090 or other legislation authorizing audits.

Signed by Governor March 15, 2019.

CHAPTER 19

(HB 240)

AN ACT relating to county appointments.

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

➔Section 1. KRS 67.710 is amended to read as follows:

The county judge/executive shall be the chief executive of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or its fiscal court by law, or by agreement with any municipality or other subdivision of government, and such additional powers as are granted by the fiscal court. The county judge/executive shall be responsible for the proper administration of the affairs of the county placed in his charge. His responsibilities shall include, but are not limited to, the following:

(1) Provide for the execution of all ordinances and resolutions of the fiscal court, execute all contracts entered into by the fiscal court, and provide for the execution of all laws by the state subject to enforcement by him or by officers who are under his direction and supervision;

(2) Prepare and submit to the fiscal court for approval an administrative code incorporating the details of administrative procedure for the operation of the county and review such code and suggest revisions periodically or at the request of the fiscal court;

(3) Furnish the fiscal court with information concerning the operations of the county departments, boards, or commissions, necessary for the fiscal court to exercise its powers or as requested by the fiscal court;

(4) Require all officials, elected or appointed, whose offices utilize county funds, and all boards, special districts, and commissions exclusive of city governments and their agencies located within the county to make a detailed annual financial report to the fiscal court concerning the business and condition of their office, department, board, commission, or special districts;

(5) Consistent with procedures set forth in KRS Chapter 68, prepare and submit to the fiscal court an annual budget and administer the provisions of the budget when adopted by the fiscal court;

(6) Keep the fiscal court fully advised as to the financial condition and needs of the county and make such other reports from time to time as required by the fiscal court or as he deems necessary;

(7) Exercise with the approval of the fiscal court the authority to appoint, supervise, suspend, and remove county personnel (unless otherwise provided by state law); ~~[and]~~

(8) With the approval of the fiscal court, make appointments to or remove members from such boards, commissions, and designated administrative positions as the fiscal court, charter, law or ordinance may create. The requirement of fiscal court approval must be designated as such in the county administrative code or the county charter. In counties containing a city of the first class, the county judge/executive shall appoint to those seats which are not subject to prior qualification on a board or commission an equal number of members from each district, as defined in KRS 67.045, into which the authority of the board or commission extends. If there are more districts than members of a particular board or commission, he shall not appoint more than one (1) member from any district. If there are more members of a particular board or commission than there are districts, he shall equalize appointments to the extent possible. The county judge/executive shall not be required, but shall use his best efforts, to balance appointments on a board or commission if the appointments are to be made from nominees submitted by other groups or individuals or if nominees must have a professional or technical background, expertise or membership. He shall attempt to balance appointments among all such boards and commissions in order to equalize representation of all districts over the entire range of such boards and commissions***; and***

(9) When directed by statute or an ordinance of that county to make an appointment and fill a vacancy, nominate a person to fill the vacancy within sixty (60) days of the date of the vacancy. The fiscal court shall approve or disapprove the nomination within forty-five (45) days of the receipt of the nomination. If the county judge/executive fails to nominate a person within sixty (60) days of the date of the vacancy, the fiscal court may fill the vacancy. If the fiscal court fails to approve or disapprove a nomination within forty-five (45) days of the nomination, the county judge/executive's nominee is deemed to have been approved. If the fiscal court disapproves a nomination, the county judge/executive shall nominate another person to fill the vacancy within forty-five (45) days of the disapproval. If the county/judge executive fails to nominate another person within forty-five (45) days, a majority of the fiscal court may fill the vacancy.

Signed by Governor March 15, 2019.

CHAPTER 20

(SB 9)

AN ACT relating to abortion and declaring an emergency.

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

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

As used in Sections 1 to 11 of this Act:

(1) "Conception" means fertilization;

(2) "Contraceptive" means a drug, device, or chemical that prevents conception;

(3) "Fertilization" has the same meaning as in KRS 311.781;

(4) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac;

(5) "Fetus" means the human offspring developing during pregnancy from the moment of conception and includes the embryonic stage of development;

(6) "Frivolous conduct" has the same meaning as in KRS 311.784;

(7) "Gestational age" means the age of an unborn human individual as calculated from the first day of the last menstrual period of a pregnant woman;

(8) "Gestational sac" means the structure that comprises the extraembryonic membranes that envelop the fetus and that is typically visible by ultrasound after the fourth week of pregnancy;

(9) "Intrauterine pregnancy" means a pregnancy in which the fetus is attached to the placenta within the uterus of the pregnant woman;

(10) "Medical emergency" has the same meaning as in KRS 311.781;

(11) "Physician" has the same meaning as in KRS 311.720;

(12) "Pregnancy" means the human female reproductive condition that begins with fertilization, when the woman is carrying the developing human offspring, and that is calculated from the first day of the last menstrual period of the woman;

(13) "Serious risk of the substantial and irreversible impairment of a major bodily function" has the same meaning as in KRS 311.781;

(14) "Spontaneous miscarriage" means the natural or accidental termination of a pregnancy and the expulsion of the fetus, typically caused by genetic defects in the fetus or physical abnormalities in the pregnant woman;

(15) "Standard medical practice" means the degree of skill, care, and diligence that a physician of the same medical specialty would employ in like circumstances. As applied to the method used to determine the presence of a fetal heartbeat for purposes of Section 4 of this Act, "standard medical practice" includes employing the appropriate means of detection depending on the estimated gestational age of the fetus and the condition of the woman and her pregnancy; and

(16) "Unborn child" and "unborn human individual" have the same meaning as "unborn child" has in KRS 311.781.

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

The General Assembly finds and declares, according to contemporary medical research, all of the following:

(1) As many as thirty percent (30%) of natural pregnancies end in spontaneous miscarriage;

(2) Less than five percent (5%) of all natural pregnancies end in spontaneous miscarriage after detection of fetal cardiac activity;

(3) Over ninety percent (90%) of intrauterine pregnancies survive the first trimester if cardiac activity is detected in the gestational sac;

(4) Nearly ninety percent (90%) of in vitro pregnancies do not survive the first trimester where cardiac activity is not detected in the gestational sac;

(5) Fetal heartbeat, therefore, has become a key medical predictor that an unborn human individual will reach live birth;

(6) Cardiac activity begins at a biologically identifiable moment in time, normally when the fetal heart is formed in the gestational sac;

(7) The Commonwealth of Kentucky has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of an unborn human individual who may be born; and

(8) In order to make an informed choice about whether to continue her pregnancy, the pregnant woman has a legitimate interest in knowing the likelihood of the fetus surviving to full-term birth based upon the presence of cardiac activity.

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

Sections 4 to 6 of this Act apply only to intrauterine pregnancies.

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

(1) (a) A person who intends to perform or induce an abortion on a pregnant woman shall determine whether there is a detectable fetal heartbeat of the unborn human individual the pregnant woman is carrying. The method of determining the presence of a fetal heartbeat shall be consistent with the person's good-faith understanding of standard medical practice, provided that if administrative regulations have been promulgated under subsection (2) of this section, the method chosen shall be one that is consistent with the regulations.

(b) The person who determines the presence or absence of a fetal heartbeat shall record in the pregnant woman's medical record the estimated gestational age of the unborn human individual, the method used to test for a fetal heartbeat, the date and time of the test, and the results of the test.

(c) The person who performs the examination for the presence of a fetal heartbeat shall give the pregnant woman the option to view or hear the fetal heartbeat.

(2) The secretary of the Cabinet for Health and Family Services may promulgate administrative regulations specifying the appropriate methods of performing an examination for the purpose of determining the presence of a fetal heartbeat of an unborn human individual based on standard medical practice. The regulations shall require only that an examination shall be performed externally.

(3) A person is not in violation of subsection (1) or (2) of this section if:

(a) The person has performed an examination for the purpose of determining the presence of a fetal heartbeat of an unborn human individual utilizing standard medical practice;

(b) The examination does not reveal a fetal heartbeat or the person has been informed by a physician who has performed the examination for a fetal heartbeat that the examination did not reveal a fetal heartbeat; and

(c) The person notes in the pregnant woman's medical records the procedure utilized to detect the presence of a fetal heartbeat.

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

(1) Except as provided in subsection (2) of this section, no person shall intentionally perform or induce an abortion on a pregnant woman before determining in accordance with subsection (1) of Section 4 of this Act whether the unborn human individual the pregnant woman is carrying has a detectable fetal heartbeat.

(2) (a) Subsection (1) of this section shall not apply to a physician who performs or induces the abortion if the physician believes that a medical emergency exists that prevents compliance with subsection (1) of this section.

(b) A physician who performs or induces an abortion on a pregnant woman based on the exception in paragraph (a) of this subsection shall make written notations in the pregnant woman's medical records of both of the following:

1. The physician's belief that a medical emergency necessitating the abortion existed; and

2. The medical condition of the pregnant woman that prevented compliance with subsection (1) of this section.

The physician shall maintain a copy of the notations in the physician's own records for at least seven (7) years from the date the notations were made.

(3) A person is not in violation of subsection (1) of this section if the person acts in accordance with subsection (1) of Section 4 of this Act and the method used to determine the presence of a fetal heartbeat does not reveal a fetal heartbeat.

(4) A pregnant woman on whom an abortion is intentionally performed or induced in violation of subsection (1) of this section is not guilty of violating subsection (1) of this section or of attempting to commit, conspiring to commit, or complicity in committing a violation of subsection (1) of this section. In addition, the pregnant woman is not subject to a civil penalty based on the abortion being performed or induced in violation of subsection (1) of this section.

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

(1) Except as provided in subsection (2) of this section, no person shall intentionally perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the unborn human individual the pregnant woman is carrying and whose fetal heartbeat has been detected in accordance with subsection (1) of Section 4 of this Act.

(2) (a) Subsection (1) of this section shall not apply to a physician who performs a medical procedure that, in the physician's reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b) A physician who performs a medical procedure as described in paragraph (a) of this subsection shall, in writing:

1. Declare that the medical procedure is necessary, to the best of the physician's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman; and

2. Specify the pregnant woman's medical condition that the medical procedure is asserted to address and the medical rationale for the physician's conclusion that the medical procedure is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(c) The physician shall place the written document required by paragraph (b) of this subsection in the pregnant woman's medical records. The physician shall maintain a copy of the document in the physician's own records for at least seven (7) years from the date the document is created.

(3) A person is not in violation of subsection (1) of this section if the person acts in accordance with subsection (1) of Section 4 of this Act and the method used to determine the presence of a fetal heartbeat does not reveal a fetal heartbeat.

(4) A pregnant woman on whom an abortion is intentionally performed or induced in violation of subsection (1) of this section is not guilty of violating subsection (1) of this section or of attempting to commit, conspiring to commit, or complicity in committing a violation of subsection (1) of this section. In addition, the pregnant woman is not subject to a civil penalty based on the abortion being performed or induced in violation of subsection (1) of this section.

(5) Subsection (1) of this section shall not repeal or limit any other provision of the Kentucky Revised Statutes that restricts or regulates the performance or inducement of an abortion by a particular method or during a particular stage of a pregnancy.

➔SECTION 7. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section are independent of the requirements of Sections 4 to 6 of this Act.

(2) A person who performs or induces an abortion on a pregnant woman shall:

(a) If the reason for the abortion purported is to preserve the health of the pregnant woman, specify in a written document the medical condition that the abortion is asserted to address and the medical rationale for the person's conclusion that the abortion is necessary to address that condition; or

(b) If the reason for the abortion is other than to preserve the health of the pregnant woman, specify in a written document that maternal health is not the purpose of the abortion.

(3) The person who specifies the information in the document described in subsection (2) of this section shall place the document in the pregnant woman's medical records. The person who specifies the information shall maintain a copy of the document in the person's own records for at least seven (7) years from the date the document is created.

➔SECTION 8. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 11 of this Act prohibits the sale, use, prescription, or administration of a drug, device, or chemical that is designed for contraceptive purposes.

➔SECTION 9. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

(1) A woman on whom an abortion was performed or induced in violation of subsection (1) of Section 5 of this Act or subsection (1) of Section 6 of this Act may file a civil action for the wrongful death of her unborn child.

(2) A woman who prevails in an action filed under subsection (1) of this section shall receive from the person who performed or induced the abortion:

(a) Damages in an amount equal to ten thousand dollars ($10,000) or an amount determined by the trier of fact after consideration of the evidence at the mother's election at any time prior to final judgment subject to the same defenses and requirements of proof, except any requirement of live birth, as would apply to a suit for the wrongful death of a child who had been born alive; and

(b) Court costs and reasonable attorney's fees.

(3) A determination that subsection (1) of Section 5 of this Act or subsection (1) of Section 6 of this Act is unconstitutional shall be a defense to an action filed under subsection (1) of this section alleging that the defendant violated the subsection that was determined to be unconstitutional.

(4) If the defendant in an action filed under subsection (1) of this section prevails and:

(a) The court finds that the commencement of the action constitutes frivolous conduct;

(b) The court's finding in paragraph (a) of this subsection is not based on that court or another court determining that subsection (1) of Section 5 of this Act or subsection (1) of Section 6 of this Act is unconstitutional; and

(c) The court finds that the defendant was adversely affected by the frivolous conduct;

the court shall award reasonable attorney's fees to the defendant.

➔SECTION 10. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Health and Family Services shall inspect the medical records from any facility that performs abortions to ensure that the physicians or other persons who perform abortions at that facility are in compliance with the reporting requirements under Section 15 of this Act. The facility shall make the medical records available for inspection to the Cabinet for Health and Family Services but shall not release any personal medical information in the medical records that is prohibited by law.

➔SECTION 11. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly that a court judgment or order suspending enforcement of any provision of Sections 1 to 11 of this Act is not to be regarded as tantamount to repeal of that provision.

(2) (a) After the issuance of a decision by the Supreme Court of the United States overruling Roe v. Wade, 410 U.S. 113 (1973), the issuance of any other court order or judgment restoring, expanding, or clarifying the authority of states to prohibit or regulate abortion entirely or in part, or the effective date of an amendment to the Constitution of the United States restoring, expanding, or clarifying the authority of states to prohibit or regulate abortion entirely or in part, the Attorney General may apply to the pertinent state or federal court for either or both of the following:

1. A declaration that any one (1) or more sections specified in subsection (1) of this section are constitutional; or

2. A judgment or order lifting an injunction against the enforcement of any one (1) or more sections specified in subsection (1) of this section.

(b) If the Attorney General fails to apply for the relief described in paragraph (a) of this subsection within thirty (30) days of an event described in paragraph (a) of this subsection, any Commonwealth or county attorney may apply to the appropriate state or federal court for such relief.

(3) If any provision of Sections 1 to 11 of this Act are held invalid, or if the application of such provision to any person or circumstance is held invalid, the invalidity of that provision does not affect any other provisions or applications of Sections 1 to 11 of this Act that can be given effect without the invalid provision or application, and to this end the provisions of Sections 1 to 11 of this Act are severable as provided in KRS 446.090. In particular, it is the intent of the General Assembly that:

(a) Any invalidity or potential invalidity of a provision of Sections 1 to 11 of this Act is not to impair the immediate and continuing enforceability of the remaining provisions; and

(b) The provisions of Sections 1 to 11 of this Act are not to have the effect of repealing or limiting any other laws of this state, except as specified by Sections 1 to 11 of this Act.

➔Section 12. KRS 311.595 is amended to read as follows:

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

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;

(2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;

(3) Committed, procured, or aided in the procurement of an unlawful abortion, including a partial-birth abortion;

(4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if in accordance with KRS Chapter 335B;

(5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;

(6) Become addicted to a controlled substance;

(7) Become a chronic or persistent alcoholic;

(8) Been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine;

(9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;

(10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;

(11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;

(12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;

(13) Violated any agreed order, letter of agreement, final order, or emergency order issued by the board;

(14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;

(15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;

(16) Willfully violated a confidential communication;

(17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;

(18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;

(19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;

(20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action;

(21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action;~~[or]~~

(22) Failed to comply with the requirements of KRS 213.101, 311.782, or 311.783 or failed to submit to the Vital Statistics Branch in accordance with a court order a complete report as described in KRS 213.101***;***

(23) Failed to comply with any of the requirements regarding making or maintaining medical records or documents described in Section 4 or 7 of this Act; or

(24) Failed to comply with the requirements of Section 5 or 6 of this Act.

➔Section 13. KRS 311.990 (Effective until July 1, 2019) is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 shall be guilty of a Class D felony.

(18) Except as provided in KRS 311.787(3), any person who intentionally violates KRS 311.787 shall be guilty of a Class D felony.

(19) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(20) Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.

(21) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.

(22) ***Any person who violates subsection (1) of Section 5 of this Act is guilty of a Class D felony.***

(23) Any person who violates subsection (1) of Section 6 of this Act is guilty of a Class D felony.

(24) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(25) ~~[(23)]~~ Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(26) ~~[(24)]~~ Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(27) ~~[(25)]~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

(28) ~~[(26)]~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(29) ~~[(27)]~~ (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(30) ~~[(28)]~~ Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(31) ~~[(29)]~~ Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(32) ~~[(30)]~~ Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(33) ~~[(31)]~~ Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(34) ~~[(32)]~~ Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

(35) ~~[(33)]~~ (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars ($100,000) for a first offense and not more than two hundred fifty thousand dollars ($250,000) for each subsequent offense.

(b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.

(36) ~~[(34)]~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.

➔Section 14. KRS 311.990 (Effective July 1, 2019) is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 shall be guilty of a Class D felony.

(18) Except as provided in KRS 311.787(3), any person who intentionally violates KRS 311.787 shall be guilty of a Class D felony.

(19) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(20) Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.

(21) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.

(22) ***Any person who violates subsection (1) of Section 5 of this Act is guilty of a Class D felony.***

(23) Any person who violates subsection (1) of Section 6 of this Act is guilty of a Class D felony.

(24) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(25) ~~[(23)]~~ Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(26) ~~[(24)]~~ Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(27) ~~[(25)]~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

(28) ~~[(26)]~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(29) ~~[(27)]~~ (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(30) ~~[(28)]~~ Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(31) ~~[(29)]~~ Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(32) ~~[(30)]~~ Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(33) ~~[(31)]~~ Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(34) ~~[(32)]~~ Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

(35) ~~[(33)]~~ (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars ($100,000) for a first offense and not more than two hundred fifty thousand dollars ($250,000) for each subsequent offense.

(b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.

(36) ~~[(34)]~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.

(37) ~~[(35)]~~ Any person convicted of violating KRS 311.728 shall be guilty of a Class D felony.

➔Section 15. KRS 213.101 is amended to read as follows:

(1) ***(a)*** Each induced termination of pregnancy which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution within fifteen (15) days after the end of the month in which the termination occurred. If the induced termination of pregnancy was performed outside an institution, the attending physician shall prepare and file the report within fifteen (15) days after the end of the month in which the termination occurred.

(b) The report shall include all the information the physician is required to certify ***or provide*** in writing or determine under KRS 311.782***,*** ~~[and]~~311.783***, Sections 4, 5, 6, and 7 of this Act***, but shall not include information which will identify the physician, woman, or man involved.

(c) If a person other than the physician described in this subsection makes or maintains a record required by Section 4, 5, 6, or 7 of this Act on the physician's behalf or at the physician's direction, that person shall comply with the reporting requirement described in this subsection as if the person were the physician.

(2) The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.

(3) By September 30 of each year, the Vital Statistics Branch shall issue a public report that provides statistics for the previous calendar year compiled from all of the reports covering that calendar year submitted to the cabinet in accordance with this section for each of the items listed in subsection (1) of this section. Each annual report shall also provide statistics for all previous calendar years in which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The Vital Statistics Branch shall ensure that none of the information included in the report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted.

(4) (a) Any person or institution who fails to submit a report by the end of thirty (30) days following the due date set in subsection (1) of this section shall be subject to a late fee of five hundred dollars ($500) for each additional thirty (30) day period or portion of a thirty (30) day period the report is overdue.

(b) Any person or institution who fails to submit a report, or who has submitted only an incomplete report, more than one (1) year following the due date set in subsection (1) of this section, may in a civil action brought by the Vital Statistics Branch be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

(c) Failure by any physician to comply with the requirements of this section, other than filing a late report, or to submit a complete report in accordance with a court order shall subject the physician to KRS 311.595.

(5) Intentional falsification of any report required under this section is a Class A misdemeanor.

(6) ~~[Within ninety (90) days of January 9, 2017,]~~The Vital Statistics Branch shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in compliance with this section.

➔Section 16. The restrictions of KRS 6.945(1) shall not apply to Sections 1 to 15 of this Act.

➔Section 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

➔Section 18. Whereas the Commonwealth of Kentucky has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of an unborn human individual who may be born, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 15, 2019.

CHAPTER 21

(HB 199)

AN ACT relating to oil and gas.

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

➔Section 1. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

(1) "Department" means the Department for Natural Resources;

(2) "Commissioner" means the commissioner of the Department for Natural Resources;

(3) "Director" means the director of the Division of Oil and Gas as provided in KRS 353.530;

(4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;

(5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive or receive, without waste, the oil and gas in and under or produced from a tract or tracts in which the person owns or controls an interest, or proceeds thereof;

(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined in subsection (7) of this section as oil;

(9) "Pool" means:

(a) An underground reservoir containing a common accumulation of oil or gas or both; or

(b) An area established by the department or the commission as a pool.

Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool";

(10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools;

(11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;

(12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;

(13) "Workable bed" means:

(a) A coal bed actually being operated commercially;

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;

(14) "Well" means a borehole:

(a) Drilled or proposed to be drilled for the purpose of producing gas or oil;

(b) Through which gas or oil is being produced; or

(c) Drilled or proposed to be drilled for the purpose of injecting any water, gas, or other fluid therein or into which any water, gas, or other fluid is being injected;

(15) "Shallow well" means any well drilled and completed at a depth of six thousand (6,000) feet or less except, in the case of any well drilled and completed east of longitude line 84 degrees 30'; shallow well means any well drilled and completed at a depth of six thousand (6,000) feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth;

(16) "Deep well" means any well drilled and completed below the depth of six thousand (6,000) feet or, in case of a well located east of longitude line 84 degree 30', a well drilled and completed at a depth below six thousand (6,000) feet or below the base of the lowest member of the Devonian Brown Shale, whichever is deeper;

(17) "Operator" means:

(a) For a deep well, any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others. In the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as the royalty owner to the extent of the prevailing royalty in the oil and gas in that portion of the pool underlying the tract owned by the owner, and as operator as to the remaining interest in such oil and gas. In the event the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool; and

(b) For a shallow well, any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas therefrom, either for himself or herself, or for himself or herself and others. If there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as operator to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by the owner, and as a royalty owner as to the one-eighth (1/8) interest in the oil and gas. If the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as operator as to the pool;

(18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as defined in subsection (17) of this section;

(19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum oil or gas reasonably recoverable in the area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;

(20) "Underground source of drinking water" means those subsurface waters identified as in regulations promulgated by the department which shall be consistent with the definition of underground source of drinking water in regulations promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act, 42 U.S.C. secs. 300(f) et seq.;

(21) "Underground injection" means the subsurface emplacement of fluids by well injection but does not include the underground injection of natural gas for purposes of storage;

(22) "Endangerment of underground sources of drinking water" means underground injection which may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and if the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons;

(23) "Class II well" means wells which inject fluids:

(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

(b) For enhanced recovery of oil or natural gas; and

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure;

(24) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state;

(25) "Horizontal well" means a well, the wellbore of which is initially drilled on a vertical or directional plane and which is curved to become horizontal or nearly horizontal, in order to parallel a particular geological formation and which may include multiple horizontal or stacked laterals;

(26) "Vertical well" means a well, the wellbore of which is drilled on a vertical or directional plane into a formation and is not turned or curved horizontally to allow the wellbore additional access to the oil and gas reserves in the formation;

(27) "Prevailing royalty" means the royalty rate or percentage that the department or the commission determines is the royalty most commonly applicable with regard to the tract or unit in the issue. The royalty rate set by the department or the commission shall not be less than one-eighth (1/8) or twelve and one-half percent (12.5%);

(28) "Best management practices" means demonstrated practices intended to control site runoff and pollution of surface water and groundwater to prevent or reduce the pollution of waters of the Commonwealth;

(29) "Abandoned storage tank facility" means any aboveground storage tank or interconnected grouping of tanks that is no longer being actively used and maintained in conjunction with the production and storage of crude oil or produced water;

(30) "Spill prevention, control, and countermeasure structures" means containment structures constructed around a storage facility to contain facility discharges;

(31) "Landowner" means any person who owns real property where an abandoned storage tank facility is currently located;

(32) "Chemical Abstracts Service" means the division of the American Chemical Society that is the globally recognized authority for information on chemical substances;

(33) "Chemical abstracts service number" means the unique identification number assigned to a chemical by the Chemical Abstracts Service;

(34) "Chemical" means any element, chemical compound, or mixture of elements or compounds that has its own specific name or identity, such as a chemical abstracts service number;

(35) "Chemical disclosure registry" means the chemical registry known as FracFocus developed by the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission. If that registry becomes

permanently inoperable, the chemical disclosure registry shall mean another publicly accessible Web site that is designated by the commissioner;

(36) "Division" means the Kentucky Division of Oil and Gas;

(37) "Emergency spill or discharge" means an uncontrolled release, spill, or discharge associated with an oil or gas well or production facility that has an immediate adverse impact to public health, safety, or the environment as declared by the secretary of the cabinet;

(38) "Health professional" means a physician, physician assistant, nurse practitioner, registered nurse, or emergency medical technician licensed by the Commonwealth of Kentucky;

(39) "High-volume horizontal fracturing treatment" means the stimulated treatment of a horizontal well by the pressurized application of more than eighty thousand (80,000) gallons of water, chemical, and proppant, combined for any stage of the treatment or three hundred twenty thousand (320,000) gallons in the aggregate for the treatment used to initiate or propagate fractures in a geological formation for the purpose of enhancing the extraction or production of oil or natural gas;

(40) "Proppant" means sand or any natural or man-made material that is used in a hydraulic fracturing treatment to prop open the artificially created or enhanced fractures once the treatment is completed;

(41) "Total water volume" means the total quantity of water from all sources used in a high-volume hydraulic fracturing treatment;

(42) "Trade secret" means information concerning the volume of a chemical or relative concentration of chemicals used in a hydraulic fracturing treatment that:

(a) Is known only to the hydraulic fracturing treatment's owners, employees, former employees, or persons under contractual obligation to hold the information in confidence;

(b) Has been perfected and appropriated by the exercise of individual ingenuity which gives the hydraulic fracturing treatment's owner an opportunity to retain or obtain an advantage over competitors who do not know the information; and

(c) Is not required to be disclosed or otherwise made available to the public under any federal or state law or administrative regulation;

(43) "Cabinet" means the Energy and Environment Cabinet;

(44) "Stratigraphic test well" means an exploratory borehole drilled for the sole purpose of acquiring subsurface geological and structure test data;~~[and]~~

(45) "Notice" means the sending of certified mail to the last known address. The date of delivery shall be the earlier of the date shown on the certified mail return receipt or the date thirty (30) days after the date shown on the postal service proof of mailing. For the purposes of KRS 353.620, 353.630, 353.640, and 353.700, any unknown or nonlocatable owner shall be deemed to have received notice, provided that the person giving the notice has caused to be published, no more than thirty (30) days prior to the submission of an application or order issued pursuant to an application, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, affected or proposed to be affected, is located. The applicant shall provide a copy of the published notification to the director within twenty (20) days of the date of publication. The notice shall:

(a) State, as applicable, that an application is being filed with the division or that an order has been issued pursuant to an application filed with the division;

(b) Describe any tract, or portion thereof, affected or proposed to be affected;

(c) In the case of an unknown owner, identify the name of the last known owner;

(d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

(e) State that any party claiming an interest in any tract, or portion thereof, affected or proposed to be affected, shall contact the operator at the published address***;***~~[.]~~

(46) (a) "Control person" means a person who:

1. Has the ability to commit the financial or real property assets or working resources of an entity to comply with this chapter and the administrative regulations promulgated hereunder with respect to the operations of a well or the manner in which a well is operated;

2. Has any other relationship that gives that person authority to determine the manner in which a well is operated, plugged, and abandoned. This includes a rebuttable presumption that an ineligible person is directing the actions of his or her spouse or child who files an application;

3. Is an officer, director, or general partner of an entity; or

4. Has an ownership interest in an entity equaling or exceeding fifty percent (50%), except that the cabinet may determine that a person has controlling interest in an entity with less than fifty percent (50%) ownership.

(b) Unless the person is determined to qualify under paragraph (a) of this subsection, "control person" does not include:

1. An independent third-party service company;

2. A contract operator;

3. A well tender or pumper;

4. The owner of a non-operated undivided working interest;

5. A limited partner;

6. A unitholder in a limited liability company; or

7. Any other person who by virtue of a joint operating agreement, entity governance agreement, or other contractual relationship does not have the right to control the manner in which a well is operated and plugged and abandoned;

(47) "Eligible well" means:

(a) An orphan well; or

(b) Any abandoned well that poses an imminent threat to human health, safety, or the environment; and

(48) "Orphan well" means any oil or gas well which has been determined by the cabinet to be improperly abandoned or improperly closed, and that:

(a) 1. Predates the state oil and gas permitting requirements enacted on June 16, 1960; or

2. Has no known history of permitting or bonding under any state regulatory program; and

(b) 1. Has no known owner or operator with continuing legal responsibility; or

2. All owners or operators with continuing legal responsibility for the well are determined to be financially insolvent following a reasonable investigation conducted by the cabinet.

➔Section 2. KRS 353.562 is amended to read as follows:

(1) ***(a) There is hereby created the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program. The purpose of the program is to:***

1. Reclaim abandoned storage tanks;

2. Properly plug and abandon eligible wells; and

3. Address imminent threats to human health, safety, or the environment posed by oil and gas facilities located in the Commonwealth.

(b) Reclamation of abandoned storage tank facilities and eligible wells under the program shall include;

1. Removing necessary well and tank infrastructure;

2. Proper plugging and abandonment of eligible wells;

3. Proper abandonment of tanks posing an imminent threat to human health, safety, or the environment;

4. Implementation of best management practices at sites associated with eligible wells or abandoned storage tank facilities; or

5. Removing primary and secondary sources of contamination of the land, air, and water.

(c) Orphan wells and abandoned storage tank facilities determined by the cabinet to be eligible for plugging, removal, reclamation, and clean up funds from the Kentucky abandoned storage tank and orphan well reclamation fund shall be addressed in accordance with this section, KRS 353.561, and Sections 3 and 4 of this Act~~[There is hereby created the Kentucky Abandoned Storage Tank Reclamation Program. The purpose of the program is to reclaim abandoned storage tank facilities in order to return the property to productive use. Reclamation of abandoned storage tank facilities shall include removing necessary tank infrastructure and removing primary and secondary sources of contamination of the land, air, and water. Abandoned storage tank facilities enrolled in the program shall be eligible for reclamation and clean up funds from the Kentucky abandoned storage tank reclamation fund]~~.

(2) The Kentucky abandoned storage tank ***and orphan well*** reclamation fund is hereby created as an interest-bearing, restricted, agency account. The fund shall be administered by the cabinet. Interest credited to the account shall be retained in the account. Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes ***authorized and*** set forth in this section and KRS 353.561, 353.563, and 353.564.

(3) ***The fund established in subsection (2) of this section may utilize and expend funds as authorized by the biennial budget.***

(4) Moneys in the fund shall be for carrying out the purpose provided in subsection (1) of this section***,*** including any administrative costs ***incurred by the cabinet during the implementation of***~~[set forth in]~~ this section and KRS 353.561, 353.563, and 353.564. The fund may receive moneys from federal and state grants or appropriations, and from any other proceeds ***received*** for the purposes of this section and KRS 353.561, 353.563, and 353.564.

(5) (a) Funds may be expended for costs incurred in the:

1. Reclamation of abandoned storage tank facilities;

2. Proper plugging, reclamation, and abandonment of eligible wells; or

3. Proper reclamation and abandonment of abandoned storage tank facilities posing an imminent threat.

(b) These funds may be expended in accordance with this section and after the cabinet determines that:

1. The well qualifies as an eligible well as defined in Section 1 of this Act;

2. There is no person identified or found with continuing legal responsibility for the abandoned storage tank facility; or

3. Reclamation or remedial measures are necessary to respond to an imminent threat to human health, safety, or the environment, posed by an abandoned storage tank facility or improperly abandoned well~~[(4) Funds expended for costs incurred in reclaiming abandoned storage tank facilities shall be in accordance with the provisions of this section and after the cabinet deems that:~~

~~(a) There is no person identified or found with continuing legal responsibility for the abandoned storage tank facility; or~~

~~(b) Reclamation measures are necessary to respond to an imminent threat to the public health, safety, and environment]~~.

(6)~~[(5)]~~ Reclamation measures paid for by the fund shall include the following:

(a) Removal and disposal of abandoned storage tank facilities;~~[and]~~

(b) Reclamation of lands affected by abandoned storage tank facilities***,*** including:

1. ***Proper*** removal ***or abandonment*** of~~[aboveground]~~ flow lines;

2. Removal or treatment of contaminated soil to no more than three (3) feet in depth;

3. Elimination of all berms, dikes, and other structures utilized as spill prevention, control, and countermeasure structures;~~[and]~~

4. Grading***, stabilization,*** and seeding of the surface where the tank or tank battery was located***; and***

5. Implementation of best management practices at sites associated with abandoned storage facilities; and

(c) Reclamation of lands affected by eligible wells, including:

1. Proper removal or abandonment of flow lines;

2. Removal and disposal of surface production equipment;

3. Grading, stabilization, and seeding of the surface where the well was located;

4. Implementation of best management practices at sites associated with eligible wells; and

5. Removal or treatment of contaminated soil to no more than three (3) feet in depth.

(7) ~~[(6)]~~ If during the course of removing and reclaiming an abandoned storage tank facility ***or plugging and reclaiming an eligible well***, the division observes evidence of soil contamination below three (3) feet depth, the division shall consult with the Department for Environmental Protection to determine whether further action is necessary to protect public health and the environment. Nothing contained in this section shall be construed to obligate the fund to provide additional moneys for removal or treatment of contaminated soil other than provided in subsection ***(6)(b)2. and (c)5.*** ~~[(5)(b)2.]~~ of this section.

(8) ~~[(7)]~~ Any person performing reclamation measures pursuant to this section shall comply with applicable local, state, and federal laws and regulations.

(9) ~~[(8)]~~ The cabinet shall have the authority to:

(a) Contract for services provided by and engage in cooperative projects with other government agencies ***or private parties in the furtherance of any remedial or reclamation project authorized and undertaken pursuant to this section, KRS 353.561, and Sections 3 and 4 of this Act*** ~~[for the remediation, cleanup, and disposal of abandoned storage tanks]~~;

(b) Enter into agreements with those government agencies ***or private parties*** to compensate those agencies ***and private parties*** with funds from the account; and

(c) Accept and deposit into the fund any federal, state, and other funds for the purposes of***, KRS 353.561, and Sections 3 and 4 of this Act*** ~~[this section and KRS 353.6603, 353.6605, and 353.6606]~~.

➔Section 3. KRS 353.563 is amended to read as follows:

(1) The cabinet and its authorized representatives, agents, and contractors shall have the right and authority to enter upon property threatened by an abandoned storage tank facility ***or improperly abandoned well*** and to access any other property for the purpose of ***plugging and reclaiming an improperly abandoned well or the*** removal and reclamation of the abandoned storage tank facility if the cabinet makes a ***determination*** ~~[finding of fact]~~ that:

(a) An abandoned storage tank facility ***or improperly abandoned well*** poses ***an imminent*** ~~[a]~~ threat to human health, safety, ***or*** ~~[and]~~ the environment under ***subsection (5)(b)3. of Section 2 of this Act*** ~~[KRS 353.562(4)(b) and is eligible to be enrolled in the Kentucky Abandoned Storage Tank Reclamation Program]~~;

(b) ~~[The cabinet determines that]~~Action ***should be taken*** in the public interest ~~[should be taken]~~ to dispose of the abandoned storage tank facilities ***or to properly plug and abandon the well*** and to reclaim the lands threatened by the abandoned storage tank facilities ***or the well***; and

(c) 1. The owner or owners of the property are not known or are not readily available; or

2. The owner or owners will not give permission for the Commonwealth, political subdivisions, or their agents, employees, or contractors to enter upon the property.

(2) Prior to entry on the land for the purpose of conducting ***plugging or*** remediation ***operations***, the cabinet shall give notice by mail to the all owners of the ***surface*** property, if known. If the owners are unknown, then the cabinet shall post notice upon the premises and shall advertise once in a newspaper of general circulation in the municipality or county in which the land where the ***well or*** abandoned storage tank facilities are located. ***The advertisement shall occur at least seven (7) days prior to entry unless exigent circumstances exist necessitating the cabinet or its agents, employees, or contractors to enter upon the property as soon as possible in order to mitigate or prevent an imminent threat to human health, safety or the environment.***

(3) Additionally, the cabinet and its authorized representatives, agents, and contractors shall have the right to enter upon any property for the purpose of conducting field inspections or investigations to determine the***:***

(a) Existence and status of ***eligible wells and*** abandoned storage tank facilities***;*** and~~[to determine the]~~

(b) Feasibility of ***plugging, remediation,*** removal***,*** and reclamation of the ***eligible well or*** abandoned storage tank facility.

(4) Entry upon the land under this section shall be construed as an exercise of the Commonwealth's police power for the protection of the public health, safety, and general welfare. Entry shall not be construed as an act of condemnation of property or of trespass thereon.

(5) The cabinet may initiate, in addition to any other remedies provided in KRS Chapter 353, in any court of competent jurisdiction, an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work authorized under this section and KRS 353.561, 353.562, and 353.564.

(6) Any person who intends to remove an abandoned storage tank facility shall:

(a) Notify the cabinet before undertaking the removal;

(b) Do so at his or her own risk and expense; and

(c) Bear sole responsibility for complying with all applicable local, state, and federal laws and regulations during the removal, disposal, and reclamation of the site.

(7) Nothing in this section shall be construed as an additional grant of authority for any person or entity other than the cabinet or the cabinet's agents to take action under this section and KRS 353.561, 353.562, and 353.564.

➔Section 4. KRS 353.564 is amended to read as follows:

(1) ***(a)*** ***Any prior owner or the surface owner shall be deemed to have waived any right to any equipment or product remaining at the site of an orphan well or abandoned storage tank facility at the time of plugging, removal, or reclamation by the cabinet or its contractors pursuant to this section, KRS 353.561, or Section 2 or 3 of this Act because of the abandonment or neglect of the facility being plugged, removed, or reclaimed with public moneys from the Kentucky abandoned storage tank and orphan well reclamation fund established in Section 2 of this Act.***

(b) ***Pursuant to paragraph (a) of this subsection, the cabinet or its agents may include as part of the plugging, removal, reclamation or remediation contract all equipment or products removed from that orphan well or abandoned storage tank facility for sale, recycling, or disposal.***

(2) The cabinet shall have the authority to recover actual and necessary expenditures, including administrative costs, reasonably incurred in carrying out the duties of this section and KRS 353.561, 353.562, and 353.563 from:

(a) The last owner or operator of record of the abandoned storage tank facility where fund moneys were expended; and

(b) Any other party legally responsible for causing or contributing to a threat to human health, safety, and the environment that the Commonwealth incurred as costs or expenses under this section and KRS 353.561, 353.562, and 353.563.

(3)~~[(2)]~~ The cabinet may initiate an action for reimbursement of costs in any court of competent jurisdiction. The recovery of any costs under this section and KRS 353.563 shall be credited to the Kentucky abandoned storage tank ***and orphan well*** reclamation fund except for recovered administrative costs which shall be retained by the cabinet.

(4)~~[(3)]~~ The cabinet may not seek reimbursement from the landowner for costs incurred under this section and KRS 353.563 unless the landowner qualifies as the last known owner or operator under subsection ***(2)(a)***~~[(1)(a)]~~ of this section or caused or contributed to a threat under subsection ***(2)(b)***~~[(1)(b)]~~ of this section.

(5) ***(a)***~~[(4)]~~ Expenditures of moneys from the fund for the purposes established in ***subsections (5) and (6) of Section 2 of this Act***~~[KRS 353.562(4) and (5)]~~ shall be prioritized in the following order:

1.~~[(a)]~~ ***Eligible wells and*** abandoned storage tank facilities that are an imminent threat to human health, safety, ***or***~~[and]~~ the environment~~[as evidenced by leaking tanks, berms, or dikes near dwellings, streams, rivers, water bodies, or other sensitive areas]~~;

2.~~[(b)]~~ Abandoned storage tank facilities ***and orphan wells*** that ***could*** pose a threat to human health, safety, ***or***~~[and]~~ the environment as evidenced by the~~[facilities']~~ proximity to structures, streams, rivers, water bodies, or other sensitive areas; and

3.~~[(c)]~~ Abandoned storage tank facilities ***and orphan wells*** that ***could*** pose a potential threat to human health, safety, ***or***~~[and]~~ the environment.

(b) The cabinet may address any abandoned storage tank facility or eligible well, regardless of priority, if doing so would be cost-efficient or otherwise create a demonstrable benefit for the public at large.

(c) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A in order to provide further detail related to the ranking of wells and abandoned storage tank facilities for plugging, removal, remediation, and reclamation.

➔Section 5. KRS 353.590 is amended to read as follows:

(1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department. ***A person under eighteen (18) years old shall not be eligible for a permit issued under this chapter.***

(2) Each application shall be accompanied by a specified fee as follows:

(a) The fee shall be three hundred dollars ($300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.

(b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars ($50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.

(c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended).

(3) Applications for each deep well shall be assessed a fee according to the following schedules:

(a) For a vertical deep well:

1. With a total vertical depth of seven thousand (7,000) feet or less, the fee shall be five hundred dollars ($500); and

2. With a total vertical depth greater than seven thousand (7,000) feet, the fee shall be six hundred dollars ($600); and

(b) For a horizontal deep well:

1. With a total measured well depth of ten thousand (10,000) feet or less, the fee shall be five thousand dollars ($5,000);

2. With a total measured well depth greater than ten thousand (10,000) feet, the fee shall be six thousand dollars ($6,000); and

3. Five hundred dollars ($500) for each additional lateral.

(4) For a horizontal deep well, each additional deep horizontal well located on the same well pad shall be assessed the following fee:

(a) Three thousand dollars ($3,000) for a total measured well depth up to ten thousand (10,000) feet; and

(b) Four thousand dollars ($4,000) for a total measured well depth greater than ten thousand (10,000) feet.

(5) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.

(6) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a professional land surveyor licensed in accordance with the provisions of KRS Chapter 322.

(7) When any person submits to the department an application for a permit to drill a ***shallow*** well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall, except as provided in this section, require from the ***shallow*** well operator the posting of a bond. ***For any well permit issued after the effective date of this Act, the department shall require two dollars ($2) of bond amount for every foot of true vertical well depth. For applications for well transfers filed after the effective date of this Act, pursuant to subsection (23) of this section, bonding shall be two dollars ($2) for every foot of true vertical well depth and shall be posted by the transferee operator. Failure to post the required bond shall result in an order issued by the department:***

(a) Requiring the proper plugging and abandonment of the shallow well or wells; or

(b) Refusing to transfer the requested shallow well or wells.~~[Bonds for deep wells are posted for the purpose of ensuring well plugging and reclamation of disturbed areas. The bond for plugging shallow wells shall be posted in accordance with the following schedule:~~

~~Well Depth Bond Amount~~

~~0 to 500 feet $500.00~~

~~501 feet to 1,000 feet ..... $1,000.00~~

~~1,001 feet to 1,500 feet ..... $1,500.00~~

~~1,501 feet to 2,000 feet ..... $2,000.00~~

~~2,001 feet to 2,500 feet ..... $2,500.00~~

~~2,501 feet to 3,000 feet ..... $3,000.00~~

~~3,001 feet to 3,500 feet ..... $3,500.00~~

~~3,501 feet to 4,000 feet ..... $4,000.00~~

~~4,001 feet to 4,500 feet ..... $5,000.00~~

~~4,501 feet to 5,000 feet ..... $6,000.00~~

~~5,001 feet to 5,500 feet ..... $7,000.00~~

~~5,501 feet to 6,000 feet ..... $8,000.00]~~

(8) Plugging and reclamation bonds for vertical deep wells shall be twenty-five thousand dollars ($25,000). However, the commission may establish a higher bonding amount for vertical deep wells if the anticipated plugging and reclamation costs exceed the minimum bonding amounts established in this section.

(9) The minimum amount of plugging and reclamation bond for a horizontal deep well shall be forty thousand dollars ($40,000). However, the commission may establish a bond amount greater than forty thousand dollars ($40,000) if the anticipated plugging and reclamation costs exceed the minimum bond.

(10) (a) All bonds required to be posted ***prior to the effective date of this Act*** under this section for plugging shallow wells shall:

1. Be made in favor of the department;

2. Be conditioned that the wells, upon abandonment, shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified; and

3. Remain in effect until the plugging of the well is approved by the department, or the bond is released ***or forfeited*** by the department.

(b) ***All bonds required to be posted after the effective date of this Act under this section for plugging shallow wells shall:***

1. Be made in favor of the department;

2. Be conditioned on the wells, upon abandonment, being plugged and the disturbed areas reclaimed in accordance with applicable statutes and the administrative regulations promulgated thereunder, and on all records required by the department being filed as specified; and

3. Remain in effect until the plugging of the well and the reclamation of the disturbed area is approved by the department, or the bond is released or forfeited by the department.

(c) All bonds required to be posted under this section for plugging deep wells shall:

1. Be made in favor of the department;

2. Be conditioned that the wells, upon abandonment, shall be plugged and the disturbed area reclaimed in accordance with the statutes and the administrative regulations of the department and that all records required by the department be filed as specified; and

3. Remain in effect until the plugging of the well and the reclamation of the disturbed area is approved by the department or the bond is released by the department.

(11) An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized, except pursuant to administrative regulations promulgated by the department.

(12) (a) ***Any shallow well blanket bond filed by an operator prior to the effective date of this Act shall remain in effect until the plugging or transfer of all the wells secured by the blanket bond, or the blanket bond is released or forfeited by the department. In the event that a number of the wells are plugged, transferred, or both, that result in the operator being eligible for a blanket bond in a lower amount, the department shall release the bond to a lower amount based upon the tiered structure in existence at the time the bond was issued. After the effective date of this Act, in the event that an operator with a shallow well blanket bond that was filed prior to the effective date of this Act drills or acquires additional wells and has remaining capacity on the blanket bond after the effective date of this Act, the operator may secure such wells with the existing blanket bond up to the limits of the bond. However, the number of wells that are eligible to be covered by a blanket bond filed prior to the effective date of this Act that were in a tier with more than five hundred (500) wells shall be limited to one thousand (1,000) wells***~~[Any qualified shallow well operator, in lieu of the individual bond, may file with the department a blanket bond according to the following tiered structure:~~

~~1. One (1) to twenty-five (25) wells require a ten thousand dollar ($10,000) bond;~~

~~2. Twenty-six (26) to one hundred (100) wells require a twenty-five thousand dollar ($25,000) bond;~~

~~3. One hundred one (101) to five hundred (500) wells require a fifty thousand dollar ($50,000) bond; and~~

~~4. Five hundred one (501) or more wells require a one hundred thousand dollar ($100,000) bond]~~.

(b) ***After the effective date of this Act,*** any~~[nonqualified]~~ shallow well operator, in lieu of an individual bond, may file with the department a blanket bond according to the following tiered structure:

1. One (1) to ***twenty-five (25) wells require a twenty thousand dollar ($20,000)***~~[one hundred (100) wells require a fifty thousand dollar ($50,000)]~~ bond;~~[and]~~

2. ***Twenty-six (26) to one hundred (100) wells require an additional thirty thousand dollar ($30,000) bond;***

3. One hundred one (101) ***to five hundred (500) wells require an additional one hundred fifty thousand dollar ($150,000) bond; and***~~[or more wells require a one hundred thousand dollar ($100,000) bond]~~

4. Five hundred one (501) to one thousand (1,000) wells require an additional one hundred thousand dollar ($100,000) bond.

(c) After the effective date of this Act, well operators who have more wells than can be accommodated by the blanket bonding structure established in paragraph (b) of this subsection or as in effect pursuant to paragraph (a) of this subsection may, in lieu of individual bonds, incrementally increase the amount of their blanket bonds filed with the department according to the tiers established in paragraph (b) of this subsection. Nothing contained in this subsection shall require a well operator with a blanket bond in existence prior to the effective date of this Act to increase the amount of its blanket bond as to the wells covered by the existing blanket bond.

(13)~~[To qualify for a blanket bond for a shallow well under the tiered structure set forth in subsection (12)(a) of this section, an operator shall:~~

~~(a) Have a blanket bond in place filed with the department prior to July 15, 2006, and have no outstanding, unabated violations of KRS Chapter 353 or regulations adopted pursuant thereto which have not been appealed;~~

~~(b) Demonstrate for a period of thirty-six (36) months prior to the request for blanket bonding a record of compliance with the statutes and administrative regulations of the division; or~~

~~(c) Provide proof of financial ability to plug and abandon wells covered by the blanket bond.~~

~~(14) In addition to the requirements set forth in subsection (15) of this section, proof of financial ability set forth in subsection (13)(c) of this section shall be established by an audited financial statement that satisfies at least two (2) of the following ratios:~~

~~(a) A ratio of total liabilities to net worth less than two (2); or~~

~~(b) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liability greater than one-tenth (0.1); or~~

~~(c) A ratio of current assets to current liabilities greater than one and five-tenths (1.5).~~

~~(15)]~~ If the operator is a corporate subsidiary, the operator further shall provide a corporate guarantee in which the guarantor shall be the parent corporation of the operator of the wells covered under the bond. The corporate guarantee shall provide:

(a) That if the operator fails to perform with the proper plugging and abandonment of any well covered by the blanket bond, the guarantor shall do so or provide for alternate financial assurance; and

(b) The corporate guarantee shall remain in force unless the guarantor sends notice of the cancellation by certified mail to the operator and to the department. Cancellation shall not occur, however, during the one hundred twenty (120) day period beginning on the first day that both the operator and the department have received notice of cancellation, as evidenced by the certified mail return receipts.

(14)~~[(16)]~~ An operator shall not be eligible ***to file a new***~~[for]~~ blanket ***bond or add additional wells to an existing blanket bond***~~[bonding]~~ if the operator has:

(a)~~[More than ten (10) violations of KRS Chapter 353 or the regulations adopted pursuant thereto within the thirty-six (36) month period;~~

~~(b)]~~ Any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto which have not been appealed;

(b)~~[(c)]~~ A forfeiture of a bond, whether an individual bond or portion of a blanket bond, on any permit where the operator has not entered into an agreed order with the department for the plugging and proper abandonment of the well or wells on the forfeited permit or permits; or

(c)~~[(d)]~~ A permit or permits, upon which a bond or portion of a bond has been forfeited and the proceeds from the forfeiture have been spent by the department to plug or reclaim the permitted well or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment.

(15)~~[(17)]~~ Any deep well operator, in lieu of an individual bond, may file with the department a blanket bond according to the following:

(a) One (1) to ten (10) vertical deep wells require a two hundred thousand dollar ($200,000) bond; and

(b) One (1) to ten (10) horizontal deep wells require a three hundred twenty thousand dollar ($320,000) bond.

(16) ~~[(18)]~~ A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds.

(17) ~~[(19)]~~ Individuals acquiring a single well for domestic use may post a combination bond which shall consist of a cash bond in the amount of one thousand dollars ($1,000) plus a lien on the property to cover future plugging costs. Only one (1) combination bond may be posted by each individual.

(18) ~~[(20)]~~ A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may serve for an individual well bond. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may serve for a blanket bond, provided that the first five thousand dollars ($5,000) of the blanket bond is posted with the department in cash.

(19) ~~[(21)]~~ The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth.

(20) ~~[(22)]~~ A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection ***(27)*** ~~[(28)]~~ of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund.

(21) ~~[(23)]~~ The bond amounts prescribed by subsection (7) of this section shall be applicable only to permits issued ***after the effective date of this Act*** ~~[upon and after July 15, 2006]~~. All bonds posted for permits issued prior to ***the effective date of this Act*** ~~[July 15, 2006]~~, shall remain in full force and effect for the duration of the permits ***secured by the bonds***.

(22) ~~[(24)]~~ The blanket bond amounts prescribed by subsection (12) of this section shall be effective ***after the effective date of this Act*** ~~[upon and after July 15, 2006]~~. Any operator having filed a blanket bond with the department prior to ***the effective date of this Act, in the event that the capacity of the bond is reached*** ~~[July 15, 2006]~~, may at its discretion increase the level of the blanket bond incrementally by increasing the blanket bond by the amount of the individual bond prescribed by subsection (12) of this section on any wells drilled subsequent to ***the effective date of this Act*** ~~[July 15, 2006]~~, until the blanket bond has reached the level ***necessary to conform to the tiers*** prescribed by subsection (12) of this section.

(23) (a) ~~[(25)]~~ ***Prior to commencing use or operation of a well or wells operated in the name of a different operator, a well operator seeking to become a successor operator shall file an application to transfer the well or wells executed by both the current operator and the applicant, pay a fee of fifty dollars ($50) per well to the department, and post the appropriate bond.***

(b) 1. Upon receipt of a request for a well records report made by an operator seeking to become a successor operator and approved by the current operator, the department shall print a well records report of the wells requested and provide the report to both the current operator and the operator seeking to become a successor operator.

2. If the report indicates the existence of outstanding violations or of missing records required to be filed pursuant to this chapter, on any application to transfer a well or wells filed within thirty (30) days of the date of the well report, the successor operator may decline to accept transfer of any wells with outstanding violations or with missing records, or may agree to accept responsibility for abatement of the violations or the filing of the missing records.

3. Based upon the successor operator's response to the well record report and subject to bonding requirements and the provisions of Section 11 of this Act, the department shall approve the transfer of the requested well or wells or any portion thereof not declined by the successor operator.

4. The department may not hold a successor operator responsible or liable for missing records not disclosed on the well record report provided by the department prior to transfer, or for missing records that which were not filed or completed by a previous operator and for which information necessary to complete the records is not reasonably available.

(c) Subject to Section 11 of this Act, upon receipt of written approval of the requested transfer, the successor operator shall assume the obligations of this chapter as to the particular well or wells and relieve the current operator of responsibility under this chapter with respect to the well or wells

transferred. It shall be the responsibility of the current operator to ensure that the successor operator has complied with the requirements of this subsection before relinquishing operations to the successor operator and before relief of responsibility under this chapter is granted to the current operator. The current operator shall remain responsible, and its bond shall not be released, on any well or wells with an outstanding violation or missing records for which a successor operator declined to accept a transfer~~[A successor to the well operator shall post bond, pay a twenty-five dollar ($25) fee per well to the department, and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee]~~.

(24) ~~[(26)]~~ If the requirements of this section with respect to ***any provision of KRS 353.500 to 353.720 or 353.735 to 353.747, or any administrative regulation or order promulgated or issued thereunder,*** ~~[proper plugging upon abandonment and submission of all required records on all well or wells]~~ have not been complied with within the time limits set by the department, by administrative regulation, or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit.

(a) The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations of the department.

(b) If, within forty-five (45) days after mailing of the notice of noncompliance, no agreement has been reached with the department regarding the alleged failure to comply, and the director determines that the operator has not complied with the requirements set forth by the department, the bond shall be ordered forfeited to the department. The forfeiture order shall become effective thirty (30) days after the department gives the operator notice of the order, unless a petition has been filed pursuant to KRS 353.700, in which case the forfeiture order shall only become effective upon a final determination of the secretary affirming the forfeiture order following the conclusion of the petition process.

(25) (a) In addition to a notice of noncompliance issued pursuant to subsection (24) of this section, the cabinet may issue a well closure order to any person or operator where:

1. An oil and gas well is in violation of KRS 353.500 to 353.720 or 353.735 to 353.747, or any administrative regulation or order promulgated or issued thereunder, and the violation is causing or could be reasonably expected to cause an imminent threat to human health, safety, or the environment; or

2. The operation of an oil and gas well by any person without first posting bond.

(b) The well closure order shall be affixed by a red tag marker to the wellhead with a letter of violation and a copy of the well closure order mailed to the address of record for the responsible person or operator, if an address is on file with the division. The letter of violation and well closure order shall notify the person or operator to immediately:

1. Cease operation of the well; and

2. Abate the violation of KRS 353.500 to 353.720 or 353.735 to 353.747, or any administrative regulation or order promulgated or issued thereunder.

(c) Any person operating a well under the circumstances described in paragraph (a)2. of this subsection may be ordered to properly plug and abandon the well, but such order does not relieve any prior obligation owed by the current operator of record pursuant to KRS 353.180. The well closure order may be appealed pursuant to KRS 353.700 within thirty (30) days of issuance.

(26) ~~[(27)]~~ A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director.

(27) ~~[(28)]~~ All sums received~~[under this section or]~~ through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist

except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

(28) ~~[(29)]~~ (a) Any permitted stratigraphic test well:

1. Is subject to all requirements under this section and KRS 353.5901, 353.550, 353.610, and 353.660(1) and (4) as if the stratigraphic test well were defined as a "well" in KRS 353.510(14); and

2. Shall be plugged within one hundred eighty (180) days of completion of drilling the well.

(b) A stratigraphic test well shall be permitted as an oil and gas production well prior to:

1. Producing oil or gas; or

2. Deviating from true vertical.

(c) Any stratigraphic test well converted to an oil or gas production well under paragraph (b) of this subsection shall be subject to the requirements of KRS 353.660(1) to (3).

(29) ~~[(30)]~~ For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock; or

(b) Any water well used primarily for cooling purposes in an industrial process.

~~[(31) Notwithstanding the provisions of KRS Chapter 353 or this section, no operator shall be eligible to receive additional permits if that operator or any entity in which it has an ownership interest has:~~

~~(a) Any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto, which have not been appealed;~~

~~(b) A forfeiture of a bond, whether an individual bond or portion of a blanket bond, on any permit where the operator has not entered into an agreed order with the department for the plugging and proper abandonment of the well or wells on the forfeited permit or permits; or~~

~~(c) A permit or permits upon which a bond or portion of a bond has been forfeited, and the proceeds therefrom having been spent by the department to plug or reclaim the permitted well, or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment.]~~

(30) ~~[(32)]~~ Any order or final determination of the department under this section shall be subject to review in accordance with KRS 353.700 and any administrative regulations promulgated thereunder.

➔Section 6. KRS 353.593 is amended to read as follows:

Appeals may be taken from all final orders of the department to issue, deny, modify, or revoke any permit under the Underground Injection Control Program. Appeals shall be taken to the ***cabinet's Office of Administrative Hearings*** ~~[Circuit Court of the county in which the well is located or proposed to be located in accordance with KRS Chapter 13B]~~.

➔Section 7. KRS 353.655 is amended to read as follows:

~~[(1)]~~No operator shall utilize shackle rods or related cables for the production of oil or gas~~[without the permission of the present owner of the land upon which the wells exist or are drilled unless such rods or cables are placed in conduit and buried at least twenty-four (24) inches below the surface of the land between all wellheads and power stations or are attached to power poles with the rods or cables twenty (20) feet above the surface of the land between all wellheads and power stations.~~

~~(2) Nothing in this section shall apply to lands classified by the United States Soil Conservation Service as class 5, 6, 7, or 8]~~.

➔Section 8. KRS 353.710 is amended to read as follows:

(1) Whenever it appears that any person is violating or threatening to violate any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720, the department may bring suit against the person in the ***Franklin Circuit Court, or the*** Circuit Court of the county where the violation occurred or is threatened, or in the county in which the defendant resides or in which any defendant resides if there is more than one (1) defendant, to restrain the person from continuing the violation or from

carrying out the threatened violation. In such a suit the court shall have jurisdiction to grant without bond or other undertaking the prohibitory or mandatory injunction as the facts may warrant, including a temporary restraining order or injunction.

(2) If the department shall fail to bring suit to enjoin a violation or threatened violation of any provisions of KRS 353.500 to 353.720, or any rule, regulation, or order promulgated or issued under KRS 353.500 to 353.720 within ten (10) days after receipt of a written request to do so by any person who is or will be adversely affected by the violation, the person making the request may bring suit in his own behalf to restrain the violation or threatened violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person allegedly violating or threatening to violate a provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720.

(3) Whenever it appears that any person is violating any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued hereunder, the Attorney General or any person who is adversely affected by the violation may bring suit to restrain the violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person allegedly violating a provision of or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720.

➔Section 9. KRS 353.991 is amended to read as follows:

(1) Any person who violates ***KRS 353.570(1)***~~[any provision of KRS 353.570]~~ shall be subject to a ***civil penalty assessed by the cabinet of not more than one thousand dollars ($1,000), and the department may require the proper plugging of the well. The civil penalty order may be appealed pursuant to KRS 353.700 within thirty (30) days of assessment. Any person who knowingly and willfully violates KRS 353.570(1) shall upon conviction be guilty of a Class A misdemeanor and subject to a*** fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred and eighty (180) days, or both.

(2) Any person who continues to violate any provision of KRS 353.500 to 353.720 ***or 353.735 to 353.747***, or any regulation or order promulgated or issued under KRS 353.500 to 353.720 ***or 353.735 to 353.747,*** after being notified in writing of the violation by the department shall ***upon conviction be guilty of a Class A misdemeanor and*** be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred and eighty (180) days, or both.

(3) Any person who does any of the following for the purpose of evading or violating KRS 353.500 to 353.720 ***or 353.735 to 353.747***, or any regulation or order promulgated or issued under KRS 353.500 to 353.720 ***or 353.735 to 353.747,*** shall ***upon conviction be guilty of a Class A misdemeanor and*** be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred and eighty (180) days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account or memorandum, required by KRS 353.500 to 353.720 ***or 353.735 to 353.747***, or by any regulation or order;

(b) Omits or causes to be omitted from a report, record, account or memorandum full, true, and correct entries and information as required by KRS 353.500 to 353.720 ***or 353.735 to 353.747***, or by any regulation or order;

(c) Removes from this Commonwealth or destroys, mutilates, alters or falsifies a report, record, account or memorandum required by KRS 353.500 to 353.720 ***or 353.735 to 353.747***, or by any regulation or order.

(4) Any person who knowingly aids or abets any other person in the violation of any provision of KRS 353.500 to 353.720 ***or 353.735 to 353.747***, or any regulation or order promulgated or issued under KRS 353.500 to 353.720 ***or 353.735 to 353.747,*** shall be subject to the same penalty as that prescribed in this section for the violation by the other person.

(5) ***All civil penalties recovered under this section shall be deposited into the oil and gas well plugging fund established in subsection (27) of Section 5 of this Act and shall be for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter***~~[Any person who violates the provisions of KRS 353.655 shall be notified by the department that he has twenty (20) days in which to remedy the violation. If after the twenty (20) day time period has elapsed he has failed or refused to comply with the provisions of KRS 353.655, he shall be subject to a fine of twenty dollars ($20) a day until the oil or gas well is brought into compliance]~~.

➔Section 10. KRS 353.180 is amended to read as follows:

(1) No person shall abandon or remove casings from any oil or gas well, either dry or producing, without first plugging the well in a secure manner approved by the department and consistent with its administrative regulations. Upon the department's plugging of an abandoned well in accordance with the requirements of this subsection, the department may sell, by sealed bid, or include as part of compensation in the contract for the plugging of the well, all equipment removed from that well and deposit the proceeds of the sale into the oil and gas well plugging fund, established in KRS ***353.590(27)*** ~~[353.590(28)]~~.

(2) Not less than thirty (30) days before advertising for bids for the plugging of wells, the department shall publish, in a newspaper of general circulation, and in locally published newspapers serving the areas in which the wells proposed for plugging are located, notices of all wells on which there is salvageable equipment, described as to farm name and Carter Coordinate location, for which the department intends to seek bids for plugging. If a person other than the operator claims an interest in the equipment of a well proposed for plugging, he shall provide documentation of that interest to the department within thirty (30) days of the date of publication of the notice of the department's intent to plug a well. Prior to the department's advertising of bids for the plugging of a well, the department shall release the well's equipment to the person deemed to have an interest in that equipment and it shall be the duty of the interest holder to remove the equipment before the well is plugged. If documentation as to an asserted interest is not provided to the department in the manner described in this subsection or a person deemed to be an interest holder fails to remove the equipment before a well is plugged, the department may sell or otherwise dispose of the equipment in accordance with this subsection.

(3) If a person fails to comply with subsection (1) of this section, any person lawfully in possession of land adjacent to the well or the department may enter on the land upon which the well is located and plug the well in the manner provided in subsection (1) of this section, and may maintain a civil action against the owner or person abandoning the well, jointly or severally, to recover the cost of plugging the well. This subsection shall not apply to persons owning the land on which the well is situated, and drilled by other persons.

➔SECTION 11. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall not issue a permit, or approve an application to transfer a well or wells to a successor operator pursuant subsection (23) of Section 5 of this Act, and an operator shall not be eligible to receive any permits or become a successor operator under this chapter, if:

(a) The applicant has falsified or otherwise misrepresented any information on or relating to the permit application;

(b) The applicant has failed to abate or reach an agreement with the cabinet regarding an unappealed violation of KRS 353.500 to 353.720 or the administrative regulations promulgated thereunder;

(c) A control person of the applicant has a forfeiture of a bond;

(d) The applicant is a control person for another operator that has a forfeiture of a bond;

(e) A control person for the applicant served as a control person for another operator when an unresolved bond forfeiture occurred; or

(f) The applicant is or has a control person who controls or is controlled by another operator that has a forfeiture of a bond.

(2) The cabinet may promulgate administrative regulations to allow for the proper administration of the compliance review described in this section. The cabinet shall restore eligibility for applicants, operators, and control persons who are deemed permit-ineligible pursuant to subsection (1)(a) of this section upon the resubmission of the application correcting the false or misrepresented information. The cabinet shall restore eligibility for applicants, operators, or control persons who are deemed permit-ineligible pursuant to subsection (1)(b) of this section upon satisfactory abatement of the violation, including payment of any civil penalties. The cabinet shall restore eligibility for applicants, operators, or control persons who are deemed permit-ineligible pursuant to subsection (1)(c) to (f) of this section upon entry and satisfactory compliance of an agreed order between the operator and the cabinet that resolves all of the operator's outstanding violations, requires payment of any civil penalties, and provides restitution to the cabinet for any costs associated with the forfeiture, plugging, and proper abandonment of a well in excess of the bonded amount.

➔Section 12. KRS 353.730 is repealed and reenacted as a new section of KRS 353.500 to 353.720 to read as follows:

(1) Any person may investigate an abandoned well upon receipt of approval from the department. The person shall submit to the department:

(a) An application requesting approval to investigate and stating the planned methods for the investigation. In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the application shall include a plan to prevent erosion and sedimentation;

(b) A twenty-five dollar ($25) fee; and

(c) A certification by the applicant that he has the authority to enter the property upon which the well is located and to conduct the investigation.

(2) The department shall review all applications for investigation. If the department approves the request for investigation, the applicant shall be allowed to produce the well without a permit as required by KRS 353.570, and the applicant shall submit a report of investigation to the department on forms provided by the department. In order to produce the well for more than sixty (60) days, the applicant must obtain a bond as required by KRS 353.590(7) or (12). Notwithstanding the provisions of KRS 353.590(2), no fee shall be required for any such well.

➔Section 13. KRS 353.570 is amended to read as follows:

(1) No person shall drill or deepen a well, drill a stratigraphic test well, or reopen a plugged well for the production of oil or gas or for the injection of water, gas or other fluid into any oil or gas producing formation (except seismograph test holes) after June 16, 1960, or drill or deepen a water supply well after June 16, 1966, until such person shall obtain a permit from the department, except as provided in ***Section 12 of this Act***~~[KRS 353.730]~~.

(2) When any applicant for a permit as required by this section has complied with the provisions of this chapter and all rules and regulations promulgated hereunder, the department shall issue the permit.

(3) The department may authorize the commencement of the drilling, deepening or reopening of any well prior to the issuance of a permit therefor; except if the location of the well is known to be underlaid by a coal-bearing stratum and consent of the owner, operator, and lessee of the coal-bearing stratum has not been granted. Consent shall be implied, when the coal-bearing stratum is owned by the oil and gas lessor or lessee, and the coal is not under lease to any third party.

➔Section 14. Any records for and unexpended balances of appropriations, allocations, and other moneys in the Kentucky abandoned storage tank reclamation fund on the effective date of this Act are transferred to the Kentucky abandoned storage tank and orphan well reclamation fund established in Section 2 of this Act. Any decisions made or actions taken regarding disbursement of moneys from the Kentucky abandoned storage tank reclamation fund prior to the effective date of this Act shall remain in effect until such time as they may be rescinded.

Signed by Governor March 18, 2019.

CHAPTER 22

(HB 258)

AN ACT relating to the operation of scooters.

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

➔Section 1. KRS 186.010 is amended to read as follows:

As used in this chapter, unless otherwise indicated:

(1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect

to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles;

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic;

(3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles;

(4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, but for registration purposes shall include low-speed vehicles and military surplus vehicles as defined in this section and vehicles operating under KRS 189.283;

(5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(6) "Operator" means any person in actual control of a motor vehicle upon a highway;

(7) (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.

(b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest;

(8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, ***except electric low-speed scooters,*** ~~[excepting]~~ road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, ***except electric low-speed scooters,*** ~~[excepting]~~ devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires;

(9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses;

(10) "Dealer" means any person engaging in the business of buying or selling motor vehicles;

(11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060;

(12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky;

(13) "Special status individual" means:

(a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";

(b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;

(c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and

(d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time";

(14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits;

(15) "Motorcycle" means any motor driven vehicle ***that has a maximum speed that exceeds fifty (50) miles per hour, has***~~[having]~~ a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. ***Only*** for purposes of registration, "motorcycle" shall include ***a motor scooter,*** an alternative-speed motorcycle***,*** and an autocycle as defined in this section, but shall not include a tractor or a moped as defined in this section;

(16) "Low-speed vehicle" means a motor vehicle that:

(a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;

(b) Is four (4) wheeled; and

(c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer;

(17) "Alternative-speed motorcycle" means a motorcycle that:

(a) Is self-propelled using an electric motor;

(b) Is three (3) wheeled;

(c) Has a fully enclosed cab and includes at least one (1) door for entry;

(d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer; and

(e) Is not an autocycle as defined in this section;

(18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors;

(19) "Autocycle" means any motor vehicle that:

(a) Is equipped with a seat that does not require the operator to straddle or sit astride it;

(b) Is designed to travel on three (3) wheels in contact with the ground;

(c) Is designed to operate at a speed that exceeds forty (40) miles per hour as certified by the manufacturer;

(d) Allows the operator and passenger to ride either side-by-side or in tandem in a seating area that may be enclosed with a removable or fixed top;

(e) Is equipped with a three (3) point safety belt system;

(f) May be equipped with a manufacturer-installed air bags or a roll cage;

(g) Is designed to be controlled with a steering wheel and pedals; and

(h) Is not an alternative-speed motorcycle as defined in this section;

(20) "Military surplus vehicle" means a multipurpose wheeled surplus military vehicle that:

(a) Is not operated using continuous tracks;

(b) Was originally manufactured for and sold directly to the Armed Forces of the United States; and

(c) Was originally manufactured under the federally mandated requirements set forth in 49 C.F.R. sec. 571.7;

(21) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;

(22) "Identity document" means an instruction permit, operator's license, or personal identification card issued under KRS 186.4102, 186.412, 186.4121, 186.4122, and 186.4123 or a commercial driver's license issued under KRS Chapter 281A;~~[and]~~

(23) "Travel ID," as it refers to an identity document, means a document that complies with Pub. L. No. 109-13, Title II***; and***

(24) "Motor scooter" means a low-speed motorcycle that is:

(a) Equipped with wheels greater than sixteen (16) inches in diameter;

(b) Equipped with an engine greater than fifty (50) cubic centimeters;

(c) Designed to operate at a speed not to exceed fifty (50) miles per hour;

(d) Equipped with brake horsepower of two (2) or greater; and

(e) Equipped with a step-through frame or a platform for the operator's feet.

➔Section 2. KRS 186A.080 is amended to read as follows:

No Kentucky certificate of registration, license plate, or certificate of title need be applied for or obtained for:

(1) A vehicle owned by the United States unless it is registered in this state;

(2) A vehicle owned by a nonresident of this state, principally operated in another state, properly and currently registered and titled in another state;

(3) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective lawful certificate of title has been issued in another state;

(4) A vehicle moved solely by animal power;

(5) An implement of husbandry;

(6) Special mobile equipment;

(7) A self-propelled wheelchair or invalid tricycle;

(8) A pole trailer;

(9) A motor vehicle engaged in the transportation of passengers for hire operating under a currently valid certificate of convenience and necessity;~~[and]~~

(10) A moped***; and***

(11) An electric low-speed scooter as defined in Section 3 of this Act.

➔Section 3. KRS 189.010 is amended to read as follows:

As used in this chapter:

(1) "Department" means the Department of Highways;

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes private residential roads and parking lots covered by an agreement under KRS 61.362, off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700;

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of the highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection;

(5) "Manufactured home" has the same meaning as defined in KRS 186.650;

(6) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation but equipped with frames, racks, or bodies having a load capacity of not exceeding one thousand (1,000) pounds;

(7) "Operator" means the person in actual physical control of a vehicle;

(8) "Pedestrian" means any person afoot or in a wheelchair;

(9) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other;

(10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively;

(11) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

(12) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1,000) pounds;

(13) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit;

(14) "Sharp curve" means a curve of not less than thirty (30) degrees;

(15) "State Police" includes any agency for the enforcement of the highway laws established pursuant to law;

(16) "Steep grade" means a grade exceeding seven percent (7%);

(17) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise and having a load capacity of over one thousand (1,000) pounds;

(18) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards;

(19) (a) "Vehicle" includes:

1. All agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and

2. All vehicles passing over or upon the highways.

(b) "Motor vehicle" includes all vehicles, as defined in paragraph (a) of this subsection except:

1. Road rollers;

2. Road graders;

3. Farm tractors;

4. Vehicles on which power shovels are mounted;

5. Construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways;

6. Vehicles that travel exclusively upon rails;

7. Vehicles propelled by electric power obtained from overhead wires while being operated within any municipality or where the vehicles do not travel more than five (5) miles beyond the city limits of any municipality;~~[and]~~

8. Vehicles propelled by muscular power; ***and***

9. Electric low-speed scooters;

(20) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material;

(21) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance;

(22) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing;

(23) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area;

(24) "All-terrain vehicle" means any motor vehicle used for recreational off-road use;~~[and]~~

(25) "Nondivisible load," as pertains to state highways that are not part of the national truck network established pursuant to 23 C.F.R. pt. 658, means a load or vehicle, that if separated into smaller loads or vehicles:

(a) Compromises the intended use of the vehicle, making it unable to perform the function for which it was intended;

(b) Destroys the value of the load or vehicle, making it unusable for its intended purpose; or

(c) Requires more than four (4) work hours to dismantle and reassemble using appropriate equipment***; and***

(26) "Electric low-speed scooter" means a device that:

(a) Weighs less than one hundred (100) pounds;

(b) Is equipped with wheels;

(c) Is equipped with handlebars;

(d) Is equipped with a brake adequate enough to stop and park the device;

(e) Is designed to be stood or sat upon;

(f) Is propelled by an electric motor, human power, or both; and

(g) Is designed to operate at a maximum speed of twenty (20) miles per hour, on a paved level surface, with or without human propulsion.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) A person sixteen (16) years of age or older, may operate an electric low-speed scooter on a highway, bicycle lane, or bicycle path.

(2) A person operating an electric low-speed scooter under this section shall be subject to traffic regulations outlined in this chapter, and the provisions of KRS 189.520.

(3) An electric low-speed scooter shall be equipped with and shall have illuminated, at least one (1) headlamp and at least one (1) rear red light when:

(a) Operated during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise; or

(b) At such other times as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period.

(4) An electric low-speed scooter may be parked on a sidewalk in a manner that does not impede the reasonable movement of pedestrian or any other traffic.

(5) An operator of an electric low-speed scooter and any company or entity that provides electric low-speed scooters for rental, shall comply with all local government ordinances.

(6) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish safe operating standards for electric low-speed scooters. Administrative regulations established under this section shall not include any equipment or helmet use requirements.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "motor scooter" has the same meaning as in Section 1 of this Act.

(2) A person may operate a motor scooter on a highway if the operator has a valid motorcycle operator's license or motorcycle instructional permit in his or her possession.

(3) A motor scooter operating on a highway is considered to be a motorcycle as defined in Section 1 of this Act and shall be titled in accordance with KRS Chapter 186A and registered as a motorcycle in accordance with KRS 186.050(2).

(4) A motor scooter operating on a highway shall be insured in compliance with KRS 304.39-110 by the owner or operator, and the proof of insurance shall be in possession of the operator at all times of operation on a highway.

(5) A person operating a motor scooter on a highway shall comply with the traffic regulations of this chapter, meet the same equipment standards as those for motorcycles in this chapter, and shall be subject to the provisions of KRS Chapter 189A.

(6) A person operating a motor scooter shall be subject to the protective headgear requirements of KRS 189.285.

➔Section 6. KRS 189.050 is amended to read as follows:

(1) All motor vehicles shall display at the rear two (2) red lights visible when lighted for at least five hundred (500) feet, unless the motor vehicle was originally equipped with only one (1) such light.

(2) A person shall not operate any motor truck or semitrailer truck on any highway unless it is equipped with a red light that automatically indicates the application of brakes and is visible from the rear a distance of not less than five hundred (500) feet.

(3) No person shall operate on any highway a motor truck or semitrailer truck having a width of any part in excess of eighty-four (84) inches, unless it carries at least two (2) clearance lights to indicate the outside left limit of the motor truck or semitrailer truck, one (1) light colored white, to be attached to and be visible from the front of the motor truck or semitrailer truck, and two (2) lights colored red, to be attached to and be visible from the rear, in each case a distance of not less than five hundred (500) feet.

(4) When in operation on any highway slow-moving or motorless vehicles, except bicycles ***and electric low-speed scooters***, shall have at least one (1) light on the left side of the vehicle whether from the front or rear, showing white and of sufficient power to reveal clearly the outline of the left side of the vehicle and in such a manner that the outline may be observed clearly by approaching vehicles from a distance of at least five hundred (500) feet.

(5) When in operation between sunset and sunrise on any highway, motorless vehicles, except bicycles ***and electric low-speed scooters***, shall have in operation:

(a) A four (4) way flasher system, with two (2) flashing yellow or amber lights visible from the front of the vehicle for a distance of at least five hundred (500) feet and two (2) flashing red lights visible from the rear of the vehicle for a distance of at least five hundred (500) feet; or

(b) Two (2) reflective lanterns, one (1) on either side of the rear of the vehicle, showing white to the front of the vehicle and red to the rear of the vehicle, with the lantern on the left side of the vehicle situated at least twelve (12) inches higher than the lantern on the right.

➔Section 7. KRS 189.340 is amended to read as follows:

(1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

(2) (a) Vehicles overtaking a bicycle ***or electric low-speed scooter*** proceeding in the same direction shall:

1. If there is more than one (1) lane for traffic proceeding in the same direction, move the vehicle to the immediate left, if the lane is available and moving in the lane is reasonably safe; or

2. If there is only one (1) lane for traffic proceeding in the same direction, pass to the left of the bicycle ***or electric low-speed scooter*** at a distance of not less than three (3) feet between any portion of the vehicle and the bicycle and maintain that distance until safely past the overtaken bicycle ***or electric low-speed scooter***. If space on the roadway is not available to have a minimum distance of three (3) feet between the vehicle and the bicycle ***or electric low-speed scooter***, then the driver of the passing vehicle shall use reasonable caution in passing the bicyclist ***or electric low-speed scooter operator***.

(b) The driver of a motor vehicle may drive to the left of the center of a roadway, including when a no-passing zone is marked in accordance with subsection (6) of this section, to pass a person operating a bicycle ***or electric low-speed scooter*** only if the roadway to the left of the center is unobstructed for a sufficient distance to permit the driver to pass the person operating the bicycle ***or electric low-speed scooter*** safely and avoid interference with oncoming traffic. This paragraph does not authorize driving on the left side of the center of the roadway when otherwise prohibited under state law.

(c) The operator of a bicycle ***or electric low-speed scooter*** shall not ride more than two (2) abreast on a single highway lane unless operating on any part of the roadway marked exclusively for bicycle use. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic.

(3) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(4) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.

(5) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred (200) feet of any vehicle approaching from the opposite direction.

(6) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof, except as provided for in subsection (2)(b) of this section.

(7) Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:

(a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation; and

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.

(8) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of at least sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway, or when traffic conditions exist which would prohibit safe use of the right or center lanes.

(9) (a) Except as provided in paragraph (c) of this subsection, the operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.

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

(c) Paragraphs (a) and (b) of this subsection shall not apply to a trailing commercial motor vehicle involved in a platoon as defined in KRS 281.010, but shall apply to the commercial motor vehicle leading a platoon.

➔Section 8. KRS 189.810 is amended to read as follows:

(1) "Slow-moving vehicle" includes farm machinery, including animal-drawn vehicles, highway construction and maintenance vehicles, and any other type of vehicle**,** except bicycles ***and electric low-speed scooters***, capable of a rate of speed no greater than twenty-five (25) miles per hour.

(2) "Slow-moving vehicle emblem" consists of a fluorescent yellow-orange triangle with a dark red reflective border, as specified in American Society of Agricultural Engineers R276 or Society of Automotive Engineers J943 standards, or consisting of reasonably similar reflective qualities as specified in said standards.

➔Section 9. KRS 189.635 is amended to read as follows:

(1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to ensure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his or her law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall not be considered open records under KRS 61.872 to 61.884 and shall remain confidential, except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection (9) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (8) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and insurers or their written designee for insurance business purposes of any party who is the subject of the report, or to the attorneys of the parties.

(6) Except as provided for in this subsection, the department shall not release accident reports for a commercial purpose. The department may, as a matter of public safety, contract with an outside entity and release vehicle damage data extracted from accident reports to such an entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to such reports under subsections (5) and (9) of this section.

(7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5), (8), and (9) of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.

(8) (a) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report.

(b) A newspaper or periodical shall be considered a news-gathering organization if it:

1. Is published at least fifty (50) of fifty-two (52) weeks during a calendar year;

2. Contains at least twenty-five percent (25%) news content in each issue or no more than seventy-five percent (75%) advertising content in any issue in the calendar year; and

3. Contains news of general interest to its readers that can include news stories, editorials, sports, weddings, births, and death notices.

(c) A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

(d) For the purposes of this section, the meaning of "news-gathering organization" does not include any product or publication:

1. Which is intended primarily for members of a particular profession or occupational group; or

2. With the primary purpose of distributing advertising or of publishing names and other personal identifying information concerning parties to motor vehicle accidents which may be used to solicit for services covered under Subtitle 39 of KRS Chapter 304.

(e) A request under this section shall be completed using a form promulgated by the department through administrative regulations in accordance with KRS Chapter 13A. The form under this paragraph shall include:

1. The name and address of the requestor and the news-gathering organization the requestor represents;

2. A statement that the requestor is a news-gathering organization under this subsection;

3. A statement that the request is in compliance with the criteria contained in this section; and

4. A declaration of the requestor as to the accuracy and truthfulness of the information provided in the request.

(9) The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.

(10) The report shall be made available without subpoena to the Department of Workplace Standards in the Labor Cabinet if the accident report is pertinent to an occupational safety and health investigation.

(11) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

(12) For reporting and statistical purposes, ***motor scooters and autocycles*** ~~[an autocycle]~~ as defined in KRS 186.010 shall be listed as ***a*** ~~[its own]~~ distinct category and shall not be considered to be a motor vehicle or a motorcycle for reports issued under this section.

➔Section 10. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance, or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications, and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one (1) person as the result of one (1) accident shall be ten thousand dollars ($10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, licensed ambulance services, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars ($1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

(b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him.

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into, and alighting from it. It does not include:

(a) Conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or

(b) Conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section ***or an electric low-speed scooter as defined in Section 3 of this Act***.

(8) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(9) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(10) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(11) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(12) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(13) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.

(14) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(15) A "user" means a person who resides in a household in which any person owns or maintains a motor vehicle.

(16) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(17) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

Signed by Governor March 18, 2019.

CHAPTER 23

(HB 114)

AN ACT relating to elections and declaring an emergency.

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

➔Section 1. KRS 118.367 is amended to read as follows:

(1) An independent, or political organization, or political group candidate required to file nomination papers pursuant to KRS 118.365(5) shall be required to file a statement-of-candidacy form with the same office at which nomination papers are filed. Candidates for federal office and candidates for mayor or legislative body in cities of the home rule class participating in partisan elections shall not be required to file a statement-of-candidacy form. The statement-of-candidacy form shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than ***the last Tuesday in January*** ~~[April 1]~~ preceding the day fixed by law for holding of regular elections for the offices sought.~~[If the office in which the statement of candidacy form is to be filed is closed on April 1, the form may be filed on the next business day.]~~ The statement-of-candidacy form shall be filed no later than 4 p.m. local time when filed on the last day on which papers are permitted to be filed. No person shall file a statement-of-candidacy form for more than one (1) public office during an election cycle.

(2) The statement-of-candidacy form shall be prescribed by the State Board of Elections. The statement-of-candidacy form shall be signed by the candidate upon filing. No charge shall be assessed for the filing of a statement-of-candidacy form. The Secretary of State and county clerks shall examine the statement-of-candidacy form of each candidate who files the form to determine if there is an error. If an error has occurred, the candidate shall be notified by certified mail within twenty-four (24) hours.

➔Section 2. KRS 117.015 is amended to read as follows:

(1) There shall be a State Board of Elections ***that is an independent agency of state government,*** which shall administer the election laws of the state and supervise registration and purgation of voters within the state. The board:

(a) May promulgate administrative regulations necessary to properly carry out its duties; and

(b) Shall promulgate administrative regulations establishing a procedure for elections officials to follow when an election has been suspended or delayed as described in KRS 39A.100.

(2) The board shall consist of the ***following:***

(a) ***The*** Secretary of State***, who shall be an ex officio, nonvoting member, and who shall also serve as the chief election official for the Commonwealth;*** ~~[and]~~

(b) Two (2) members appointed by the Governor as provided in subsection (6) of this section;

(c) Six (6) ***voting*** members~~[to be]~~ appointed by the Governor as provided in ***subsection (5) of*** this ***section; and*** ~~[subsection. The Secretary of State shall serve as the chairman of the state board and the chief election official for the Commonwealth]~~

(d) An executive director appointed in accordance with Section 3 of this Act, who may vote only to break a tie regarding selection of the chair of the board.

(3) A chair of the board, who is a then-current voting member of the board, shall be elected as chair of the board by a majority of the voting members who serve on the board. The chair shall preside at the meetings of the board and vote on matters before the board.

(4) The members shall serve for a term of four (4) years or until their successors are appointed. Members shall be at least twenty-five (25) years of age and qualified voters of this state. No appointed member shall be a candidate for public office ***or*** ~~[,]~~ have been a candidate for public office for two (2) years prior to his ***or her*** appointment***, except as provided in subsection (2)(b) of this section. No member of the board shall*** ~~[, or]~~ have been convicted of any election law offense.

(5) Two (2) members shall be appointed by the Governor from a separate list of at least five (5) names submitted by the state central executive committee of each of the two (2) political parties that polled the largest vote in

the last preceding election for state officials. The list shall be submitted to the Governor by February 15 of 1992, and the appointments of the Governor shall be made by April 1 of the same year. Two (2) separate lists shall be submitted to the Governor by August 15 of 1990 and every four (4) years thereafter, and two (2) appointments shall be made from these lists by September 15 of each year in which the lists are received.

(6) ***Two (2) members shall be appointed by the Governor from a separate list of at least four (4) names submitted by the Kentucky County Clerk's Association of each of the two (2) political parties that polled the largest vote in the last preceding regular election for state officials. Each of the two (2) members appointed under this subsection shall be former county clerks. The lists required under this subsection shall be submitted to the Governor by July 15 of 2019 and every four (4) years thereafter. The appointments made by the Governor under this subsection shall be made by August 15 of 2019 and every four (4) years thereafter.***

(7) Vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy shall be of the same political party as his ***or her*** predecessor.

(8)~~[(3)]~~ The board shall meet as often as necessary to carry out its duties and shall keep a record of its acts, orders, findings, and proceedings. A majority of the board shall constitute a quorum. ~~[The Secretary of State shall preside at the meetings and may vote.]~~

(9)~~[(4)]~~ The members of the board shall be paid a reasonable sum to be fixed by the secretary of the Personnel Cabinet, with the approval of the secretary of the Finance and Administration Cabinet, and in addition, their expenses in attending board meetings. The compensation shall be paid out of the State Treasury upon requisition signed by the ***chair***~~[chairman]~~ of the board and approved by the secretary of the Finance and Administration Cabinet.

➔Section 3. KRS 117.025 is amended to read as follows:

(1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant~~[to the]~~ director, who shall be of a different political party than the director. The salaries of the director and ***the***~~[his]~~ assistant ***director*** shall be set by the board.

(2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including legal counsel and a training officer to provide assistance to the county clerks and the county boards of elections in their training of precinct election officers.

(3) The board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct***, and institute appropriate safeguards to ensure that there is no inappropriate use of the voter registration roster. State and local election officials, including the Secretary of State, employees of the Secretary, and members of the State Board of Elections and their staff, shall only use the voter registration roster for purposes relevant to their prescribed duties of election administration. The Secretary of State, and two (2) employees of the Secretary, who may be designated by the Secretary with explicit written authority and notification to the board, shall have electronic access to the information contained within the voter registration roster, but shall not correct, alter, or delete information from the voter registration roster, unless having obtained prior approval by a majority of the voting members of the board***;

(b) For each primary~~[election]~~, furnish each county clerk with a master list of all registered voters in the county, together with three (3) signature rosters of all registered voters in each precinct of the county according to party affiliation, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each primary~~[election]~~;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d) Maintain all information furnished to the board relating to the inclusion or deletion of names from the rosters for four (4) years;

(e) Furnish, at a reasonable price, the state central executive committee of each political party qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct

of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f) Purchase, lease or contract for the use of equipment necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;

(g) Secure information from any source which may assist the board in carrying out the purposes of this section;

(h) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable price ***to be determined by the board***. The board shall not furnish precinct lists to persons who intend to use the lists for commercial use***; and***

(i) Be responsible for oversight of board personnel, including hiring, investigations, disciplinary actions, promotions, and other like actions subject to KRS Chapter 18A.

➔Section 4. KRS 117.995 is amended to read as follows:

(1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.

(3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his or her vote on the machine as required of the voter by this chapter shall be guilty of a Class A misdemeanor.

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(5) Any person who signs a name other than his or her own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his or her name, or any person who applies for the ballot for the use of anyone other than himself or herself or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.

(6) Any person who violates any provision of KRS 117.235 or 117.236 related to prohibited activities during absentee voting or on election day, after he or she has been duly notified of the provisions by any precinct election officer, county clerk, deputy county clerk, or other law enforcement official, shall, for each offense, be guilty of a Class A misdemeanor.

(7) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate or incomplete voter assistance form or fails to complete a voter assistance form when required shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

(8) The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.

(9) Any local or state election official, including the Secretary of State, employees of the Secretary, and members of the State Board of Elections and their staff, who knowingly and willfully uses the voter registration roster in violation of subsection (3)(a) of Section 3 of this Act, shall, for each offense, be guilty of a Class A misdemeanor.

➔Section 5. KRS 117A.010 is amended to read as follows:

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

(1) "Covered voter" means:

(a) A uniformed-service voter or an overseas voter who is registered to vote in the Commonwealth of Kentucky;

(b) A uniformed-service voter defined in subsection (9)(a) of this section whose voting residence is in the Commonwealth of Kentucky and who otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;

(c) An overseas voter who, before leaving the United States, was last eligible to vote in the Commonwealth of Kentucky and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;

(d) An overseas voter who, before leaving the United States, would have been last eligible to vote in the Commonwealth of Kentucky had the voter then been of voting age and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements; or

(e) An overseas voter who was born outside the United States, is not described in paragraph (c) or (d) of this subsection, and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements, if:

1. The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within the Commonwealth of Kentucky; and

2. The voter has not previously registered to vote in any other state;

(2) "Dependent" means an individual recognized as a dependent by a uniformed service;

(3) "Federal postcard application" means the application prescribed under ***the Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office Act, 52 U.S.C. secs. 20301 to 20311***~~[Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff(b)(2)]~~;

(4) "Federal write-in absentee ballot" means the ballot described in ***the Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office Act, 52 U.S.C. secs. 20301 to 20311***~~[Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff-2]~~;

(5) "Military-overseas ballot" means:

(a) A federal write-in absentee ballot;

(b) A ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

(c) A ballot cast by a covered voter in accordance with this chapter;

(6) "Overseas voter" means a United States citizen who is outside the United States;

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(8) "Uniformed service" means:

(a) Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

(b) The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(c) The National Guard and state militia;

(9) "Uniformed-service voter" means an individual who is qualified to vote and is:

(a) A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(b) A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

(c) A member on activated status of the National Guard or state militia; or

(d) A spouse or dependent of a member referred to in this subsection; and

(10) "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

➔Section 6. KRS 117A.030 is amended to read as follows:

(1) The ***State Board of Elections is***~~[Secretary of State is the state official]~~ responsible for implementing this chapter and the Commonwealth of Kentucky's responsibilities under the ***Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office Act, 52 U.S.C. secs. 20301 to 20311***~~[Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. secs. 1973ff et seq]~~.

(2) The ***State Board of Elections shall have the authority to promulgate***~~[Secretary of State may delegate to the State Board of Elections responsibilities under this chapter, including but not limited to the promulgation of]~~ administrative regulations necessary to implement this chapter.

(3) The ***State Board of Elections***~~[Secretary of State]~~ shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots.

(4) The ***State Board of Elections***~~[Secretary of State]~~ shall establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information authorized under this chapter.

(5) The ***State Board of Elections***~~[Secretary of State]~~ shall:

(a) Develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the Commonwealth of Kentucky; and

(b) To the extent reasonably possible, coordinate with other states to carry out this section.

(6) The ***State Board of Elections***~~[Secretary of State]~~ shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of a military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter. The ***State Board of Elections***~~[Secretary of State]~~ shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

➔Section 7. KRS 117A.040 is amended to read as follows:

(1) In registering to vote, an overseas voter who is eligible to vote in the Commonwealth of Kentucky shall use and shall be assigned to the voting precinct of the address of the last place of residence of the voter in the Commonwealth of Kentucky, or, in the case of a voter described by KRS 117A.010(1)(e), the address of the last place of residence in the Commonwealth of Kentucky of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter shall be assigned an address for voting purposes.

(2) The ***State Board of Elections***~~[Secretary of State]~~ shall promulgate administrative regulations covering the procedures for assigning an address for voting purposes for an overseas voter whose last place of residence is no longer a recognized residential address, provided that any regulations promulgated under this section shall specify that the overseas voter's assigned address shall be located in the same voting precinct as the overseas voter's last place of residence would have been located if the address were still a recognized residential address.

➔Section 8. KRS 117A.050 is amended to read as follows:

(1) To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application, or the application's electronic equivalent.

(2) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received during the period registration is open under KRS 116.045. If the declaration is received after the last day of registration under KRS 116.045, it shall be treated as an application to register to vote for subsequent elections.

(3) The ***State Board of Elections***~~[Secretary of State]~~ shall ensure that the electronic transmission system described in KRS 117A.030(4) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.

➔Section 9. KRS 117A.060 is amended to read as follows:

(1) A covered voter who is registered to vote in the Commonwealth of Kentucky may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under KRS 117.085**,**~~[or]~~ the federal postcard application**,** or the application's electronic equivalent.

(2) A covered voter who is not registered to vote in the Commonwealth of Kentucky may use a federal postcard application**,** or the application's electronic equivalent**,** to apply simultaneously to register to vote under KRS 117A.050**,** and for a military-overseas ballot.

(3) The ***State Board of Elections***~~[Secretary of State]~~ shall ensure that the electronic transmission system described in KRS 117A.030(4) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The covered voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the close of business hours seven (7) days before the election.

(5) To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:

(a) The use of a federal postcard application or federal write-in absentee ballot; and

(b) The use of the electronic transmission system established under KRS 117A.030(4).

(6) This chapter does not preclude a covered voter from voting using the regular absentee ballot provisions under KRS 117.075, 117.077, 117.085, and 117.086.

➔Section 10. KRS 117A.130 is amended to read as follows:

The ***State Board of Elections***~~[Secretary of State]~~, in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether:

(1) The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and

(2) The voter's military-overseas ballot has been received.

➔Section 11. KRS 117A.150 is amended to read as follows:

(1) At least fifty (50) days before a regularly scheduled election and forty-five (45) days before an election not regularly scheduled, an official in each jurisdiction charged with printing and distributing ballots and balloting material shall make available a sample ballot that includes all of the ballot measures and federal, state, and local offices provided in KRS 117A.020 that will be on the ballot on the date of the election, and shall provide an electronic copy of the sample ballot to the Secretary of State ***and to the State Board of Elections***.

(2) The ***State Board of Elections,*** Secretary of State**,** and any local election jurisdiction that maintains an Internet Web site shall make the sample ballot required under subsection (1) of this section available on their Web sites.

(3) A covered voter may request a copy of a sample ballot from~~[either]~~ the Secretary of State**,**~~[or]~~ the local election official, ***or the State Board of Elections,*** who shall send the sample ballot to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

➔Section 12. Whereas ensuring proper access to the voter registration roster is a compelling and immediate need, as well as making a new delegation of authority to oversee the Uniform Military and Overseas Voters Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 19, 2019.

CHAPTER 24

(HB 22)

AN ACT relating to local boards of education.

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

➔Section 1. KRS 160.190 is amended to read as follows:

(1) Any vacancy in any board of education shall be filled by ***a majority vote of the remaining members of the local board*** ~~[the chief state school officer]~~ within ***sixty (60)*** ~~[ninety (90)]~~ days after the vacancy occurs. ***Within thirty (30) days of the vacancy, the local board shall, for two (2) weeks, have solicited applications by posting a notice announcing the vacancy on the district's Web site and by placing an advertisement in the newspaper of the largest general circulation in the county. An applicant shall file a letter of intent with the local board affirming that the applicant meets the eligibility requirements as established by KRS 160.180 and shall submit with the application a transcript evidencing completion of the twelfth grade or results of a twelfth grade equivalency examination. After the two (2) weeks of advertisement on the district's Web site and in the newspaper, the local board shall select from the applicants under this subsection to fill the vacancy.***

(2) If the local board fails to make an appointment under subsection (1) of this section, then the chief state school officer shall fill the vacancy within sixty (60) days of the failure.

(3) The member ***chosen under this section*** ~~[so chosen]~~ shall meet the eligibility requirements as established by KRS 160.180 and shall hold office until his ***or her*** successor is elected ***or appointed,*** and has qualified. ~~[The local board of education may make nominations and any person may nominate himself or another for the office.]~~

(4) ~~[(2)]~~ Any vacancy having an unexpired term of one (1) year or more ***on August 1*** ~~[at the next regular November election]~~ after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular ~~[November]~~election after the vacancy occurs. The elected member shall succeed the member chosen ***under subsection (1) or (2) of this section*** ~~[by the chief state school officer]~~ to fill the vacancy.

(5) (a) If no candidate files a petition of nomination to fill an unexpired term on a local board of education under subsection (4) of this section, then a new vacancy shall exist on November 1 and the vacancy shall be filled according to subsection (1) of this section.

(b) If no candidate files a petition of nomination for a new term on a local board of education opening pursuant to KRS 118.315 and 118.365, then a vacancy shall exist on January 1 and the vacancy shall be filled according to subsection (1) of this section.

➔Section 2. KRS 160.210 is amended to read as follows:

(1) ~~[(a)]~~In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

~~[(b) If no candidate files a petition of nomination for a county board of education opening pursuant to KRS 118.315, the chief state school officer shall fill the new term of office for all openings that have no candidate filings under KRS 118.315 by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The chief state school officer shall require and receive the affidavit and transcript required by KRS 160.180 prior to making an appointment. The local board of education may make nominations and any person may nominate himself or another for the office.~~

~~(c) Unless a number of candidates equal to or greater than the number of positions to be filled file petitions for nomination for an independent board of education opening pursuant to KRS 118.315, the chief state school officer shall fill the new term of office for all openings that have no candidate filings under KRS 118.315 by appointing a member to the local board who meets the residency requirement and the~~

~~qualifications for office provided in KRS 160.180. The chief state school officer shall require and receive the affidavit and transcript required by KRS 160.180 prior to making an appointment. The local board of education may make nominations and any person may nominate himself or another for the office.]~~

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts, a change in territory due to annexation, or to allow compliance with KRS 117.055(2).

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county

board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

Became law without Govenor's signature March 20, 2019

CHAPTER 25

(HB 227)

AN ACT relating to members of boards of education.

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

➔Section 1. KRS 160.280 is amended to read as follows:

(1) Members of boards of education shall receive no salaries, but members of boards of education may receive***,*** ***for each day a regular or special meeting is attended,*** a per diem of ***one hundred fifty***~~[seventy-five]~~ dollars ***($150)***~~[($75) in any calendar year,]~~ and their actual expenses~~[for each regular or special meeting attended]~~. Members shall receive this same per diem for training required by KRS 160.180. In no case shall the expenses incurred within the district or per diem of any member exceed ***six***~~[three]~~ thousand dollars ***($6,000)***~~[($3,000)]~~ in any calendar year.

(2) Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.

(3) All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

(4) Board members shall be eligible to participate in any group medical or dental insurance plan provided to employees of the district pursuant to KRS 161.158. Participating board members shall pay the full cost of any premium required for their participation in the plan.

➔Section 2. This Act takes effect July 1, 2019.

Became law without Govenor's signature March 20, 2019

CHAPTER 26

(SJR 7)

A JOINT RESOLUTION directing the Department for Medicaid Services to study the potential impacts of implementing programs similar to the Kentucky Employees' Health Plan's Diabetes Value Benefit plan and Diabetes Prevention Program for Medicaid beneficiaries in the Commonwealth.

WHEREAS, in State Fiscal Year 2015-2016, nearly 100,000 adult Medicaid recipients and nearly 3,000 Medicaid recipients under the age of 20 in Kentucky were diagnosed with diabetes; and

WHEREAS, data from the 2017 Kentucky Diabetes Report shows that diabetes is more common among those with lower incomes and lower levels of education; and

WHEREAS, people with diabetes are more likely to have other serious, chronic medical conditions, including hypertension, high cholesterol, and coronary heart disease; and

WHEREAS, in State Fiscal Year 2015-2016, 3,805 Kentucky Medicaid recipients with a primary diagnosis of diabetes made a total of 5,395 emergency department visits which resulted in a total of $2.182 million in Medicaid spending; and

WHEREAS, in State Fiscal Year 2015-2016, 21,859 Kentucky Medicaid recipients with a primary or secondary diagnosis of diabetes were admitted to a hospital and received inpatient services more than 40,000 times for a total of 204,756 covered hospital days which resulted in a total of $199 million in Medicaid spending; and

WHEREAS, diabetes has the third highest overall cost of common chronic condition among the Kentucky Medicaid population with total expenditures of $283.69 million in State Fiscal Year 2015-2016; and

WHEREAS, in Kentucky diabetes is the fifth-leading cause of death by disease and the state ranks fourth in the nation for highest diabetes mortality rate; and

WHEREAS, people with diabetes have medical expenses approximately 2.3 times higher than those who do not have diabetes; and

WHEREAS, in 2013 the Kentucky Employees' Health Plan (KEHP) implemented the Diabetes Prevention Program which is a year-long educational and lifestyle training program certified by the Centers for Disease Control and Prevention (CDC) that is offered in both face-to-face classroom settings and online; and

WHEREAS, KEHP's Diabetes Prevention Program participants, on average, exceed CDC goals for weight loss, regular physical activity, and A1C levels thereby reducing their risk for developing diabetes; and

WHEREAS, in 2016 KEHP implemented the Diabetes Value Benefit plan which provides plan members who have been diagnosed with diabetes with access to all necessary diabetes testing supplies and diabetes-related prescription drugs free of charge, or in the case of some nongeneric prescriptions with a significantly reduced co-pay; and

WHEREAS, according to KEHP, the Diabetes Value Benefit plan has resulted in increased diabetes medication adherence rates which have produced reductions in overall medical costs, the average number of non-diabetes related prescriptions per patient, the number of doctor's office visits, the number of emergency department visits, the number of hospital admissions, and the length of hospital stays; and

WHEREAS, despite increased prescription costs, KEHP estimates that the Diabetes Value Benefit plan has produced a total medical cost savings in excess of $10.5 million since 2016; and

WHEREAS, the Diabetes Medical Emergency Response Task Force has recommended that the General Assembly adopt a joint resolution instructing the Department for Medicaid Services to study the potential impacts of implementing programs similar to the Diabetes Prevention Program and Diabetes Value Benefits plan offered by KEHP and to provide the results of that study to the Interim Joint Committee on Health and Welfare and Family Services during the 2019 interim;

NOW, THEREFORE,

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

➔Section 1. The Department for Medicaid Services shall conduct a study of the potential impacts of implementing programs similar to the Kentucky Employees' Health Plan's Diabetes Value Benefit plan and Diabetes Prevention Program for Medicaid beneficiaries in the Commonwealth. Impacts studied shall include but not be limited to the estimated cost of such programs, the health benefits such programs may afford Medicaid beneficiaries, and any potential financial savings that may be achieved by such programs.

➔Section 2. The Department for Medicaid Services shall submit a written report of its findings from the study required by Section 1 of this Resolution to the Legislative Research Commission's Interim Joint Committee on Health and Welfare and Family Services by November 1, 2019.

➔Section 3. The Clerk of the Senate shall transmit a copy of this Resolution to Governor Matthew G. Bevin, 700 Capital Avenue, Suite 100, Frankfort, Kentucky 40601; Adam Meier, Secretary of the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621; and Carol Steckel, Commissioner of the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621.

Signed by Governor March 19, 2019.

CHAPTER 27

(SB 110)

AN ACT relating to Medicaid credentialing of health care providers.

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

➔Section 1. KRS 205.532 is amended to read as follows:

(1) As used in KRS 205.532 to 205.536:

(a) "Clean application" means***:***

1. ***For credentialing purposes,*** a credentialing application submitted by a provider to a credentialing verification organization that:

a.~~[1.]~~ Is complete ***and correct***;~~[and]~~

b.~~[2.]~~ Does not lack any required substantiating documentation; ***and***

c. Is consistent with the requirements for the National Committee for Quality Assurance requirements; or

2. For enrollment purposes, an enrollment application submitted by a provider to the department that:

a. Is complete and correct;

b. Does not lack any required substantiating documentation;

c. Complies with all provider screening requirements pursuant to 42 C.F.R. Part 455; and

d. Is on behalf of a provider who does not have accounts receivable with the department;

(b) "Credentialing application date" means the date that a credentialing verification organization receives a clean application from a provider;

(c) "Credentialing verification organization" means an organization that gathers data and verifies the credentials of providers in a manner consistent with federal and state laws and the requirements of the National Committee for Quality Assurance. "Credentialing verification organization" is limited to the following:

1. An organization designated by the department pursuant to subsection (3)(a) of this section; and

2. Any bona fide, nonprofit, statewide, health care provider trade association, organized under the laws of Kentucky, that has an existing contract with the department or a managed care organization, as of July 1, 2018, to perform credentialing verification activities~~[for its members, providers who are employed by its members, or providers who practice at the members' facilities]~~;

(d) "Department" means the Department for Medicaid Services;

(e) "Medicaid managed care organization" or "managed care organization" means an entity for which the department has contracted to serve as a managed care organization as defined in 42 C.F.R. sec. 438.2;

(f) "Provider" has the same meaning as in KRS 304.17A-700; and

(g) "Request for proposals" has the same meaning as in KRS 45A.070.

(2) On and after January 1, 2019, every contract entered into or renewed for the delivery of Medicaid services by a managed care organization shall be in compliance with KRS 205.522, 205.532 to 205.536, and 304.17A-515.

(3) (a) Through a request for proposals, the department shall designate a single organization as a credentialing verification organization to verify the credentials of providers on behalf of ~~[the department and]~~all managed care organizations.

(b) Following the department's designation pursuant to this subsection, the contract between the department and the designated credentialing verification organization shall be submitted to the Government Contract Review Committee of the Legislative Research Commission for comment and review.

(c) A credentialing verification organization***, designated by the department,*** shall be reimbursed on a per provider credentialing basis by the department. ***The reimbursements***~~[This expense]~~ shall be ***offset or deducted equally***~~[reduced]~~ from ***each*** Medicaid managed care organizations capitation ***payments***~~[rates]~~.

(d) ***The department shall enroll and screen providers in accordance with 42 C.F.R. Part 455 and applicable state and federal law.***

(e) Each provider seeking to be enrolled and screened with the department shall make application via electronic means as determined by the department.

(f) Pursuant to federal law, all providers seeking to participate in the Medicaid program with a managed care organization shall be enrolled as a provider with the department.

(g) Each provider seeking to be ~~[enrolled in Medicaid and]~~credentialed with ~~[the department and]~~a Medicaid managed care organization shall submit a single credentialing application to the designated credentialing verification organization, or to an organization meeting the requirements of subsection (1)(c)2. of this section, if applicable. The credentialing verification organization shall:

1. Gather all necessary documentation from each provider;

2. Within five (5) days of receipt of a credentialing application, notify the provider in writing if the application is complete;

3. Review an application for any misstatement of fact or lack of substantiating documentation;

4. ***Credential and*** provide verified credentialing ***information electronically***~~[packets]~~ to the department and to each managed care organization as requested by the provider within thirty (30) calendar days of receipt of a clean application; and

5. Conduct reevaluations of provider documentation when required ***pursuant to***~~[by]~~ state or federal law or for the provider to maintain participation status with ~~[the department or]~~a managed care organization.

(4) (a) The department shall enroll a provider within ***sixty (60)***~~[thirty (30)]~~ calendar days of receipt of a ***clean provider enrollment application***~~[verified credentialing packet for the provider from a credentialing verification organization]~~. The date of enrollment shall be the date that the provider's clean application was initially received by ***the department***~~[a credentialing verification organization]~~. ***The time limits established in this section shall be tolled or paused by a delay caused by an external entity. Tolling events include, but are not limited to, the screening requirements contained in 42 C.F.R. Part 455 and searches of federal databases maintained by entities such as the United States Centers for Medicare and Medicaid Services.***

(b) A Medicaid managed care organization shall:

1. Determine whether it will contract with the provider within thirty (30) calendar days of receipt of the verified credentialing ***information***~~[packet]~~ from the credentialing verification organization; and

2. a. Within ten (10) days of an executed contract, ensure that any internal processing systems of the managed care organization have been updated to include:

i. The accepted provider contract; and

ii. The provider as a participating provider.

b. In the event that the loading and configuration of a contract with a provider will take longer than ten (10) days, the managed care organization may take an additional fifteen (15) days if it has notified the provider of the need for additional time.

(5) ***(a)*** Nothing in this section requires a Medicaid managed care organization to contract with a provider if the managed care organization and the provider do not agree on the terms and conditions for participation.

(b) Nothing in this section shall prohibit a provider and a managed care organization from negotiating the terms of a contract prior to the completion of the department's enrollment and screening process.

(6) (a) For the purpose of reimbursement of claims, once a provider has met the terms and conditions for credentialing and enrollment, the provider's credentialing application date shall be the date from which the provider's claims become eligible for payment.

(b) A Medicaid managed care organization shall not require a provider to appeal or resubmit any clean claim submitted during the time period between the provider's credentialing application date and a managed care organization's completion of its credentialing process.

(c) Nothing in this section shall limit the department's authority to establish criteria that allow a provider's claims to become eligible for payment in the event of lifesaving or life preserving medical treatment, such as, for an illustrative but not exclusive example, an organ transplant.

(7) Nothing in this section shall prohibit a university hospital, as defined in KRS 205.639, from performing the activities of a credentialing verification organization for its employed physicians, residents, and mid-level practitioners where such activities are delineated in the hospital's contract with a Medicaid managed care organization. The provisions of subsections (3), (4), (5), and (6) of this section with regard to payment and timely action on a credentialing application shall apply to a credentialing application that has been verified through a university hospital pursuant to this subsection.

(8) To promote seamless integration of licensure information, the relevant provider licensing boards in Kentucky are encouraged to forward and provide licensure information electronically to the department and any credentialing verification organization.

Signed by Governor March 19, 2019.

CHAPTER 28

(SB 125)

AN ACT relating to feral cats.

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

➔Section 1. KRS 258.015 is amended to read as follows:

(1) Every owner shall have his dog, cat, or ferret initially vaccinated against rabies by the age of four (4) months and revaccinated at the expiration of the immunization period as certified by the veterinarian. The veterinarian who vaccinates a dog, cat, or ferret shall issue to the owner a vaccination certificate on a form approved by the Cabinet for Health and Family Services. The vaccination certificate shall be prepared and issued in duplicate, one (1) copy to be retained by the issuing veterinarian and one (1) copy to be given to the owner of the dog, cat, or ferret vaccinated. Each certificate shall bear the name and address of the veterinarian who issued it. The veterinarian shall also furnish each dog owner with a rabies tag bearing a serial number corresponding to the vaccination certificate with the year of immunization. The tag shall be affixed to a collar or harness furnished by the owner and shall be worn by the dog for which the tag was issued. No one except the owner or his duly authorized agent shall remove the tag.

(2) Every qualified person who vaccinates his own dog shall comply with the vaccination certificate and tag requirement provisions of subsection (1) of this section.

(3) Every owner of a cat or ferret shall show proof of a valid rabies vaccination upon request of an animal control officer or peace officer.

~~[(4) Any person with feral cats on his premises shall make a reasonable effort to capture or vaccinate the cats.]~~

Signed by Governor March 19, 2019.

CHAPTER 29

(SB 30)

AN ACT relating to cancer prevention through insurance coverage for screening and appropriate genetic testing.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "genetic test for cancer risk" means a blood, saliva, or tissue typing test that reliably determines the presence or absence of an inherited genetic characteristic that is generally accepted in the medical or scientific community as being associated with a statistically significant increased risk of cancer development.

(2) (a) All health benefit plans issued or renewed on or after the effective date of this Act shall cover any genetic test for cancer risk that is recommended by any of the following, if the recommendation is consistent with the most recent version of genetic testing guidelines published by the National Comprehensive Cancer Network (NCCN):

1. A physician, physician assistant, or genetic counselor licensed under KRS Chapter 311; or

2. An advanced practice registered nurse licensed under KRS Chapter 314.

(b) The commissioner may extend the coverage required by paragraph (a) of this subsection to include recommendations that are consistent with the most recent version of genetic testing guidelines or criteria published by additional national medical societies, if the guidelines or criteria are determined by the commissioner to be relevant and reliable.

(3) Coverage required by this section shall:

(a) Not be subject to a deductible, coinsurance, or any other cost-sharing requirements; and

(b) Include coverage at the health benefit plan's average in-network rate for out-of-network providers or laboratories if there are no in-network providers or laboratories available to provide the covered test.

(4) This section shall not be construed to limit coverage required by Section 2 of this Act or any other law.

➔Section 2. KRS 304.17A-257 is amended to read as follows:

(1) A health benefit plan issued or renewed on or after January 1, 2016, shall provide coverage for all colorectal cancer examinations and laboratory tests specified in ***the most recent version of the***~~[current]~~ American Cancer Society guidelines for complete colorectal cancer screening of asymptomatic individuals as follows:

(a) Coverage or benefits shall be provided for all colorectal ***cancer***~~[screening]~~ examinations and ***laboratory*** tests that are administered at a frequency identified in the most recent version of the American Cancer Society guidelines for complete colorectal cancer screening; and

(b) The covered individual shall be:

1. ***Forty-five (45)***~~[Fifty (50)]~~ years of age or older; or

2. Less than ***forty-five (45)***~~[fifty (50)]~~ years of age and at high risk for colorectal cancer according to ***the most recent version of the***~~[current colorectal cancer screening guidelines of the]~~ American Cancer Society ***guidelines for complete colorectal cancer screening***.

(2) Coverage ***required by***~~[under]~~ this section shall not be subject to a deductible***,***~~[or]~~ coinsurance***, or any other cost-sharing requirements*** for services received from participating providers under the health benefit plan.

(3) This section shall not be construed to limit coverage required by Section 1 of this Act or any other law.

➔Section 3. This Act takes effect on January 1, 2020.

Signed by Governor March 19, 2019.

CHAPTER 30

(SB 8)

AN ACT relating to educators.

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

➔Section 1. KRS 161.770 is amended to read as follows:

(1) Upon written request of a teacher or superintendent, a board of education may grant a leave of absence for a period of not more than two (2) consecutive school years for educational or professional purposes, and shall grant such leave where illness, maternity, adoption of a child or children, or other disability is the reason for the request. Upon subsequent request, such leave may be renewed by the board. A board of education may pay a sum of money equivalent to all or any portion of salary to a teacher or superintendent who has been granted leave for educational or professional purposes if the person taking said leave agrees in writing to return to employment with the board for no less than two (2) years.

(2) Without request, a board of education may grant leave of absence and renewals thereof to any teacher or superintendent because of physical or mental disability, but such teacher or superintendent shall have the right to a hearing and appeal on such unrequested leave of absence or its renewal in accordance with the provisions for hearing and appeal in KRS 161.790.

(3) ***Any action taken under subsection (1) or (2) of this section shall not violate the Americans with Disabilities Act of 1990, the Health Insurance Portability and Accountability Act of 1996, or any other applicable federal law. A board of education:***

(a) May only request medical information necessary to decide whether to grant a leave of absence;

(b) Shall not request or retain unnecessary medical information; and

(c) Shall not disclose any medical information received, except as permitted by state and federal law.

(4) Upon the return to service of a teacher or superintendent at the expiration of a leave of absence, he shall resume the contract status which he held prior to such leave.

(5)~~[(4)]~~ Payments to any teacher or superintendent under this section by a local district are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school funds as established in KRS Chapter 157.

➔Section 2. KRS 161.790 is amended to read as follows:

(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, including but not limited to violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education, the Education Professional Standards Board, or lawful rules and regulations established by the local board of education for the operation of schools, or refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;

(b) Immoral character or conduct unbecoming a teacher;

(c) Physical or mental disability; or

(d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.

(2) Charges under ***subsection***~~[subsections]~~ (1)(a) and ~~[(1)]~~(d) of this section shall be supported by a written record of ***the actions of the teacher upon which the charge is based, provided***~~[teacher performance]~~ by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made under KRS 158.6455.

(3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the commissioner of education and the superintendent of his ***or her*** intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.

(4) ***(a)*** Except as provided in KRS 163.032, upon receiving the teacher's notice of his ***or her*** intention to answer the charge, the commissioner of education shall appoint a three (3) member tribunal, consisting of one (1) teacher, who may be retired, one (1) administrator, who may be retired, and one (1) ***attorney to serve as hearing officer and chairperson of the tribunal***~~[lay person]~~, none of whom reside in the district, to conduct an administrative hearing in accordance with KRS Chapter 13B within the district. Priority for selection as a ***teacher or administrator*** tribunal member shall be from a pool of potential tribunal members who have been designated and trained to serve as tribunal members on a regular and

ongoing basis, pursuant to administrative regulations promulgated by the Kentucky Board of Education. Funds appropriated to the Department of Education for professional development may be used to provide tribunal member training. The commissioner of education shall ~~[name the chairman and]~~set the date and time for the hearing. The hearing shall begin no later than forty-five (45) days after the teacher files the notice of intent to answer the charge ***unless an extension is granted by the hearing officer or otherwise agreed to by the parties***.

(b) The hearing officer shall be appointed from a pool of hearing officers who have received in-depth training in the law related to employment of teachers and in the conduct of due process hearings pursuant to KRS Chapter 13B, and who hold other qualifications as determined by the Kentucky Board of Education.

(c) The hearing officer training shall be designed and conducted by the Kentucky Department of Education.

(d) The Kentucky Board of Education shall adopt administrative regulations to implement the due process provisions required by this section. Persons serving as hearing officers shall be paid or reimbursed as provided in KRS 13B.030.

(5) ***The hearing officer shall schedule a mandatory prehearing conference with the parties, which may be held in person or electronically through the use of technology. Prehearing motions may be disposed of at the conference. The hearing officer shall have the authority to mediate settlement and to enter an agreed order if the matter is resolved by the parties.*** A hearing officer shall have final authority to rule on dispositive prehearing motions.

(6) ***If the matter is not settled or dismissed as a result of the prehearing conference, a tribunal hearing shall be conducted.*** The hearing may be public or private at the discretion of the teacher. At the hearing, ***the***~~[a]~~ hearing officer appointed by the commissioner of education shall preside with authority to rule on procedural matters, but the tribunal ***as a whole*** shall be the ultimate trier of fact. The local board shall pay each ***teacher and administrator*** member of the tribunal a per diem of one hundred dollars ($100) and travel expenses.

(7) Upon hearing both sides of the case, the tribunal may by a majority vote render its decision or may defer its action for not more than five (5) days. ***The decision, written in a recommended order, shall be limited to upholding or overturning the decision of the superintendent. The hearing officer shall then within fifteen (15) days submit to the parties the written recommended order in a form complying with the requirements of KRS 13B.110(1). Each party may file written exceptions no later than fifteen (15) days from receipt of the recommended order. Upon consideration of the exceptions filed by the parties, the hearing officer may order a settlement conference between the parties. Within ten (10) days after either the consideration of the exceptions or a settlement conference, whichever occurs later, the hearing officer shall enter a final order. If there is no settlement reached, the final order shall affirm the recommended order. If a settlement is reached, the final order shall approve the terms of a written settlement as an agreed order.*** Provisions of KRS Chapter 13B notwithstanding, the ***hearing officer's***~~[tribunal]~~ decision shall be a final order~~[and may be rendered on the record]~~.

(8) The superintendent may suspend the teacher pending final action to terminate the contract, if, in his ***or her*** judgment, the character of the charge warrants the action. If ***the contract termination is overturned by the final order***~~[after the hearing the decision of the tribunal is against termination of the contract]~~, the suspended teacher shall be paid his ***or her*** full salary for any period of suspension.

(9) The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B. The review of the final order shall be conducted by the Circuit Court as required by KRS 13B.150.

(10) As an alternative to termination of a teacher's contract, the superintendent upon notifying the board and providing written notification to the teacher of the charge may impose other sanctions, including suspension without pay, public reprimand, or private reprimand. The procedures set out in subsection (3) of this section shall apply if the teacher is suspended without pay or publicly reprimanded. The teacher may appeal the action of the superintendent if these sanctions are imposed in the same manner as established in subsections (4) to (9) of this section. Upon completion of a suspension period, the teacher may be reinstated.

Signed by Governor March 19, 2019.

CHAPTER 31

(SB 15)

AN ACT relating to school policies.

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

➔Section 1. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;

(b) ***"Clear CA/N check" means a letter from the Cabinet for Health and Family Services indicating that there are no substantiated findings of child abuse or neglect relating to a specific individual***~~["Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor]~~;

(c) "Relative" means father, mother, brother, sister, husband, wife, son and daughter; and

(d) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) Except as provided in KRS 160.346***, the school district personnel actions identified in this section shall be carried out as follows***:

(a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer fifteen (15) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing;

(c) When a vacancy needs to be filled in less than fifteen (15) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days; ***and***

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district~~.[;]~~

(3) Restrictions on employment of relatives shall be as follows:

(a) ~~[(e)]~~ No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office~~[, or prior to marrying a relative of the superintendent,]~~ and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;

(b) ~~[(f)]~~ No superintendent shall employ a relative of a school board member of the district~~[, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection]~~;

(c) ~~[(g) 1.]~~ No principal's relative shall be employed in the principal's school~~[, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.~~

~~2. No spouse of a principal shall be employed in the principal's school, except:~~

~~a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or~~

~~b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.~~

~~3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.~~

~~4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph]~~; and

(d) ~~[(h)]~~ A relative that is ineligible for employment under paragraph ***(a), (b), or (c)*** ~~[(e), (f), or (g)]~~ of this subsection may be employed as a substitute for a certified or classified employee if the relative is not:

1. A regular full-time or part-time employee of the district;
2. Accruing continuing contract status or any other right to continuous employment;
3. Receiving fringe benefits other than those provided other substitutes or
4. Receiving preference in employment or assignment over other substitutes.

(4) ~~[(3)]~~ No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.

(5) ~~[(4)]~~ No superintendent shall ***initially*** employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services. The superintendent may employ, at his discretion, except at a Kentucky Educational Collaborative for State Agency Children program, persons convicted of sex crimes classified as a misdemeanor.

(6) ~~[(5)]~~ ***Requirements for background checks shall be as follows:***

(a) A superintendent shall require ***the following individuals to submit to*** a national and state criminal background check ***by the Department of Kentucky State Police and the Federal Bureau of Investigation*** and ***have*** ~~[require]~~ a ***clear CA/N check*** ~~[letter]~~, provided by the individual~~[, from the Cabinet for Health and Family Services indicating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect~~

~~records maintained by the Cabinet for Health and Family Services on all new certified hires in the school district and student teachers assigned within the district~~]***:***

1. Each new certified or classified hire;

2. A nonfaculty coach or nonfaculty assistant as defined under KRS 161.185;

3. A student teacher;

4. A school-based decision making council parent member; and

5. Any adult who is permitted access to school grounds on a regularly scheduled and continuing basis pursuant to a written agreement for the purpose of providing services directly to a student or students as part of a school-sponsored program or activity.

(b) 1. The requirements of paragraph (a) of this subsection shall not apply to[~~Excluded are~~]***:***

a. Classified and certified individuals employed by the school district prior to the effective date of this Act; or

b. Certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check and who have a ***clear CA/N check***[~~letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services~~] for the previous employment.

[~~(b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.~~

~~(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police, the Federal Bureau of Investigation, and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search.~~]

2.[~~(d)~~] The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

[~~(6) (a) A superintendent shall require a national and state criminal background check and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services on all classified initial hires.~~

~~(b) The superintendent shall require that each classified initial hire submit to a national and state criminal history background check by the Department of Kentucky State Police and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.~~

~~(c) Any request for any criminal background records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under paragraph (b) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search.~~]

(c)~~[(7)(a)]~~ ***A parent member may serve prior to the receipt of the criminal history background check and CA/N letter required by paragraph (a) of this subsection but shall be removed from the council on receipt by the school district of a report documenting a record of abuse or neglect, or a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500, or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.***

(d) ***A***~~[The]~~ superintendent~~[shall require a contractor who works on school premises during school hours and]~~ may require~~[a contractor who does not have contact with students,]~~ a volunteer~~[,]~~ or a visitor to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a ***clear CA/N check***~~[letter]~~, provided by the individual~~[, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~.

~~[(b) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. If requested, the results of the state criminal background check and the results of the national criminal history background check and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search.]~~

(7)~~[(8)]~~ (a) If~~[a school term has begun and]~~ a certified or classified position remains unfilled ***after July 31*** or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check and~~[have]~~ a ***clear CA/N check***~~[letter]~~, provided by the individual~~[, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~. Application for the criminal record and a request for a ***clear CA/N check***~~[letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~ of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165***, or on the basis of a CA/N check showing substantiation of child abuse or neglect***.

(8)~~[(9)]~~ (a) ***All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police, the Federal Bureau of Investigation, and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search***~~[Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AND HAVE A LETTER, PROVIDED~~

~~BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT].["]~~

(b) Each application or renewal form, provided by the employer to an applicant for a certified ***or classified*** position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND~~[HAVE]~~ A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE ***APPLICANT HAS***~~[EMPLOYEE IS CLEAR TO HIRE BASED ON]~~ NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES~~[AS A CONDITION OF EMPLOYMENT]~~."

(c) Each application form for a district position shall require the applicant to:

1. Identify the states in which he or she has maintained residency, including the dates of residency; and

2. Provide picture identification.

~~[(10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.]~~

~~[(11) (a) A school based decision making council parent member, as defined under KRS 160.345, shall submit to a state and national fingerprint supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.~~

~~(b) The results of the state criminal history background check and the results of the national criminal history background check, if requested, and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be sent to the district superintendent. Any fee charged by the Department of Kentucky State Police and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search. A parent member may serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.]~~

(9)~~[(12)]~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.

(10)~~[(13)]~~ Notwithstanding any law to the contrary, each certified and classified employee of the school district shall notify the superintendent if he or she has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal. Any failure to report this finding shall result in the certified or classified employee being subject to dismissal or termination.

(11)~~[(14)]~~ The form for requesting a ***CA/N check***~~[letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~ shall be made available on the Cabinet for Health and Family Services Web site.

➔Section 2. KRS 160.151 is amended to read as follows:

(1) (a) 1. A private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with KRS 156.160(3) may require a national and state criminal background check and require a ***clear CA/N check, as defined in Section 1 of this Act,***~~[letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~ on all new certified hires in the school and student teachers assigned to the school and may require a new national and state criminal background check and require a ***clear CA/N check***~~[letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~ on each certified teacher once every five (5) years of employment.

2. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check and ***were required to have***~~[require]~~ a ***clear CA/N check***~~[letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~ for previous employment may be excluded from the initial national or state criminal background checks.

(b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

(2) If a school requires a criminal background check or requires a ***clear CA/N check***~~[letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~ for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE ***APPLICANT***~~[EMPLOYEE]~~ IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."

(a) ~~[For purposes of this subsection, "contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.~~

~~(b) 1.]~~The school or school board may require ***an adult who is permitted access to school grounds on a regularly scheduled and continuing basis pursuant to a written agreement for the purpose of providing services directly to a student or students as part of a school-sponsored program or activity***~~[a contractor who works on school premises during school hours and may require a contractor who does not have contact with students]~~, a volunteer, or a visitor to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts and require a ***clear CA/N check***~~[letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated~~

~~child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~.

(b) ~~[2.]~~ Any request for records ***from the Department of Kentucky State Police*** under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police if required. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. If a background check of child abuse and neglect records is requested, the person seeking employment shall provide to the hiring superintendent a ***clear CA/N check*** ~~[letter from the Cabinet for Health and Family Services stating the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~.

(c) ~~[3.]~~ Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3) or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services. A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.

(b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check or the receipt of a ***clear CA/N check*** ~~[letter]~~, provided by the individual~~[, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~.

(c) Employment at a nonpublic school implementing this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 or the receipt of a ***clear CA/N check*** ~~[letter]~~, provided by the individual~~[, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~.

(d) Nonpublic schools implementing this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 or the receipt of a ***clear CA/N check*** ~~[letter, provided by the individual, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~.

(4) The form for requesting a ***clear CA/N check*** ~~[letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services]~~ shall be made available on the Cabinet for Health and Family Services Web site.

➔Section 3. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) Personnel decisions at the school level shall be as follows:

1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph (i)11. of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;

2. a. i. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process.

ii. Except as provided in subdivision b. of this subparagraph, the council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;

b. An alternative principal selection process may be used by the school council as follows:

i. Prior to a meeting called to select a principal, all school council members shall receive informational materials regarding Kentucky open records and open meetings laws and sign a nondisclosure agreement forbidding the sharing of information shared and discussions held in the closed session;

ii. The superintendent shall convene the school council and move into closed session as provided in KRS 61.810(1)(f) to confidentially recommend a candidate;

iii. The council shall have the option to interview the recommended candidate while in closed session; and

iv. After any discussion, at the conclusion of the closed session, the council shall decide, in a public meeting by majority vote of the membership of the council, whether to accept or reject the recommended principal candidate;

c. If the recommended candidate is selected, and the recommended candidate accepts the offer, the name of the candidate shall be made public during the next meeting in open session;

d. i. If the recommended candidate is not accepted by the school council under subdivision b. of this subparagraph, then the process set forth in subdivision a. of this subparagraph shall apply.

ii. The confidentially recommended candidate's name and the discussions of the closed session shall remain confidential under KRS 61.810(1)(f), and any documents used or generated during the closed meeting shall not be subject to an open records request as provided in KRS 61.878(1)(i) and (j).

iii. A recommended candidate who believes a violation of this subdivision has occurred may file a written complaint with the Kentucky Board of Education.

iv. A school council member who is found to have disclosed confidential information regarding the proceeding of the closed session shall be subject to removal from the school council by the Kentucky Board of Education under subsection (9)(e) of this section;

3. Personnel decisions made at the school level under the authority of subparagraphs 1. and 2. of this paragraph shall be binding on the superintendent who completes the hiring process;

4. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020; and

5. Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380 ***(3)(a)***~~[(2)(e)]~~, the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(19);

2. Assignment of all instructional and noninstructional staff time;

3. Assignment of students to classes and programs within the school;

4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day related to improving classroom teaching and learning;

6. Planning and resolution of issues regarding instructional practices;

7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;

9. Adoption of an emergency plan as required in KRS 158.162;

10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and

11. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data as shown on state and local student assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than October 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policies adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of

Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

(e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the state board determines a violation of the confidentiality requirements set forth in subsection (2)(h)2. of this section by a school council member has occurred, the state board shall remove the member from the school council, and the member shall be permanently prohibited from serving on any school council in the district.

(10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.

(11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

(12) Discretionary authority exercised under subsection (2)(h)2.b. of this section shall not violate provisions of any employer-employee bargained contract existing between the district and its employees.

➔Section 4. KRS 160.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 160.250 shall be fined not more than two hundred dollars ($200).

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten ($10) nor more than fifty dollars ($50).

(3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400 shall be fined not less than one hundred ($100) nor more than one thousand dollars ($1,000) for each offense, and the violation is grounds for revocation of his certificate.

(4) Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty ($50) nor more than one hundred dollars ($100), and shall be subject to removal from office.

(5) The Kentucky Board of Education may withhold funds allotted under KRS 157.350 from any local district which violates ~~[subsection (4) of]~~KRS 160.380***(5)*** in the amount of one thousand dollars ($1,000) per violation.

(6) In addition to penalties listed in this section, any local district which violates ~~[subsection (4) of]~~KRS 160.380***(5)*** shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

➔Section 5. KRS 161.044 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate administrative regulations governing the qualifications of teachers' aides in the common schools. All teachers' aides working in kindergarten or with entry level students in primary classes and all instructional teachers' aides initially employed after July 1, 1986, except those with current teacher certification, shall have a high school diploma or a High School Equivalency Diploma.

(2) "Noninstructional teacher's aide" means an adult who works under the direct supervision of the teaching staff in performing noninstructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a noninstructional period. Noninstructional teachers' aides employed on a full-time basis shall possess skills necessary to perform their duties and shall meet the requirements established in KRS 161.011 and 160.380~~[(6)]~~.

(3) Within the administrative regulations established by the Kentucky Board of Education, a local district may employ teachers' aides in supplementary instructional and noninstructional activities with pupils. While engaged in an assignment as authorized under the administrative regulations, and as directed by the professional administrative and teaching staff, these personnel shall have the same legal status and protection as a certified teacher in the performance of the same or similar duties.

(4) Local districts shall give preference to applicants for the position of teacher's aide who have regular or emergency teacher certification.

(5) Local districts shall provide training of the instructional teacher's aide with the certified employee to whom he is assigned.

Signed by Governor March 19, 2019.

CHAPTER 32

(SB 16)

AN ACT establishing the Kentucky Rare Disease Advisory Council and making an appropriation therefor.

WHEREAS, a rare disease, sometimes called an orphan disease, is defined as a disease that affects fewer than 200,000 people; and

WHEREAS, there are 7,000 known rare diseases affecting approximately 30 million men, women, and children in the United States; and

WHEREAS, while the exact cause for many rare diseases remains unknown, 80 percent of rare diseases are genetic in origin and can be linked to mutations in a single gene or in multiple genes which can be passed down from generation to generation; and

WHEREAS, challenges for a person who has a rare disease include delays in obtaining a diagnosis, misdiagnosis, shortages of medical specialists who can provide treatment, and lack of access to therapies and medication used to treat rare diseases but not approved by the Federal Food and Drug Administration for that purpose; and

WHEREAS, researchers have made considerable progress in developing diagnostic tools and treatment protocols and in discovering methods of prevention, but much more remains to be accomplished in the search and development of new therapeutics; and

WHEREAS, an advisory council composed of qualified professionals and persons living with rare diseases could educate medical professionals, government agencies, and the public about rare diseases as an important public health issue and encourage and secure funding for research for the development of new treatments for rare diseases;

NOW, THEREFORE,

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

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

(1) The Kentucky Rare Disease Advisory Council is hereby established to advise the General Assembly and state departments, agencies, commissions, authorities, and private institutions that provide services for individuals diagnosed with a rare disease.

(2) In order to reduce the administrative burden on state agencies, the council authorized under Sections 1 to 3 of this Act shall be administered by an existing eligible entity operating within the state defined in subsection (3) of this section.

(3) An eligible entity shall be a non-profit organization as defined by 26 U.S.C. sec. 501 that operates within Kentucky and has experience working in the field of rare diseases.

(4) The Governor or his or her designee shall appoint a chair and vice chair to the advisory council to serve for an initial term of two (2) years.

(5) Upon their initial appointment, the chair and vice chair of the council shall appoint other members of the council.

(6) Upon their initial appointment, the chair and vice chair of the council shall develop and submit to the Governor and the General Assembly a written description of the intended mission of the council, including any state agencies and legislative committees it intends to advise.

(7) After the initial appointments, the Kentucky Rare Disease Advisory Council shall determine its procedures governing membership and participation with the following exceptions:

(a) The total council membership shall not exceed twenty (20) members;

(b) All future appointed members to the council shall be approved by a majority vote of existing members;

(c) All existing and future members of the council, including the chair and vice chair, shall serve terms of two (2) years, beginning on the day of the Governor's appointment, shall be eligible to succeed themselves, and shall serve until their successors are appointed; and

(d) Members of the council shall serve until replaced. A majority of the council members shall constitute a quorum for the purposes of conducting business.

(8) After members are appointed to the council, the council shall apply for, and accept, any grant of money from the federal government, private foundations, or other sources that may be available for programs related to rare diseases.

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

The Kentucky Rare Disease Advisory Council shall:

(1) Act as the advisory body on rare diseases to the General Assembly, the Governor, and to all relevant state and private agencies that provide services to, or are charged with the care of, individuals with rare diseases;

(2) Coordinate its duties with those community-based organizations and private-sector institutions within the state for the purpose of ensuring greater cooperation regarding the research, diagnosis, and treatment of rare diseases. The coordination shall require, when appropriate:

(a) Disseminating the outcomes of the Advisory Council's research, identified best practices, and policy recommendations; and

(b) Utilizing common research collection and dissemination procedures;

(3) Research and determine the most appropriate methods to collect thorough and complete information on rare diseases in Kentucky and other information as the council deems necessary and appropriate to collect;

(4) Research and identify priorities relating to the quality, cost-effectiveness, and access to treatment and services provided to persons with rare diseases, and develop related policy recommendations;

(5) Identify best practices for rare disease care from other states and at the national level that may improve rare disease care in Kentucky;

(6) Develop effective strategies to raise public awareness of rare diseases in Kentucky;

(7) Ensure that the duties of the council are carried out in a manner that is coordinated and compatible with similar research being conducted at the state and federal levels;

(8) In conjunction with the state's medical schools, the state's schools of public health, and hospitals in the state that provide care to persons diagnosed with a rare disease, develop a list of existing, publicly accessible resources on research, diagnosis, treatment, and education relating to rare diseases;

(9) Report biennially on its activities, findings, and recommendations relating to the quality, cost-effectiveness, and access to treatment and services for persons with rare diseases in Kentucky to the Governor, the Cabinet for Health and Family Services, and the General Assembly;

(10) Upon receipt of the council's biennial report, the Governor and Cabinet for Health and Family Services shall within ninety (90) days issue a written response to the council detailing its efforts to improve state policies pertaining to the identification, treatment, and care of rare diseases; and

(11) Upon receipt of the council's biennial report, the Interim Joint Committee on Health and Welfare and Family Services shall within one hundred and twenty (120) days convene a hearing on issues pertaining to the identification, treatment, and care of rare diseases identified by the council in its report.

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

(1) The Kentucky Rare Disease Council shall cease to exist on December 1, 2028, unless otherwise reestablished by the General Assembly.

(2) If the General Assembly does not reestablish the Kentucky Rare Disease Council, any outstanding funds collected by the council as described in subsection (8) of Section 1 of this Act shall be donated for the purposes of improving the treatment and care of rare diseases, including for conducting research on specific rare diseases.

Signed by Governor March 19, 2019.

CHAPTER 33

(HB 158)

AN ACT relating to child welfare and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall require a staff member of a child-caring facility to submit to background checks in accordance with 42 U.S.C. sec. 671(a)(20)(D) and the implementing federal rules, including national and state fingerprint-supported criminal background checks by the Department of Kentucky State Police and the Federal Bureau of Investigation.

(2) The child-caring facility staff member shall provide the member's fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted.

(3) The results of the national and state criminal background checks shall be sent to the cabinet.

(4) The cabinet may register a child-caring facility staff member in the rap back system.

(5) The request for background checks shall be in a manner approved by the Justice and Public Safety Cabinet, and the Cabinet for Health and Family Services may charge a fee to be paid by a child-caring facility not to exceed the actual cost of processing the request.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔Section 2. KRS 199.011 is amended to read as follows:

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

(1) "Adoption worker" means an employee of the cabinet so designated by the secretary for health and family services, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;

(2) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;

(3) "Cabinet" means the Cabinet for Health and Family Services;

(4) "Child" means any person who has not reached his eighteenth birthday;

(5) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;

(6) "Child-placing agency" means any agency licensed by the cabinet, which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;

(7) "Department" means the Department for Community Based Services;

(8) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;

(9) "Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;

(10) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;

(11) "Group home" means a homelike facility, excluding Department of Juvenile Justice-operated or -contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;

(12) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;

(13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency, which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and

public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption;

(14) "Rap back system" means a system that enables an authorized entity to receive ongoing status notifications of any criminal history from the Department of Kentucky State Police or the Federal Bureau of Investigation reported on an individual whose fingerprints are registered in the system, upon approval and implementation of the system;

(15) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);

(16) "Secretary" means the secretary for health and family services; and

(17) "Voluntary and informed consent" means that at the time of the execution of the consent, the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person, and include the following:

(a) Date, time, and place of the execution of the consent;

(b) Name of the child, if any, to be adopted, and the date and place of the child's birth;

(c) Consenting person's relationship to the child;

(d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;

(e) 1. A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.

2. If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable ***seventy-two (72) hours after***~~[twenty (20) days after the later of the placement approval or]~~ the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the ***expiration of the seventy-two (72) hours***~~[twentieth day]~~ by certified or registered mail and also by first-class mail.

3. If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable ***seventy-two (72) hours***~~[twenty (20) days]~~ after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the ***expiration of the seventy-two (72) hours***~~[twentieth day]~~ by certified or registered mail and also by first-class mail;

(f) Disposition of the child if the adoption is not adjudged;

(g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;

(h) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and

(i) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

➔Section 3. KRS 199.480 is amended to read as follows:

(1) The following persons shall be made parties defendant in an action for leave to adopt a child:

(a) The child to be adopted;

(b) The biological living parents of a child under eighteen (18), if the child is born in lawful wedlock. If the child is born out of wedlock, its mother; and its father, if one (1) of the following requirements is met:

1. He is known and voluntarily identified by the mother by affidavit;

2. He has registered with the cabinet pursuant to KRS 199.503 as a putative father prior to the birth of the child, or if he did not have notice prior to the birth of the child, within ***twenty-one (21)***~~[thirty (30)]~~ days after the birth of the child;

3. He has caused his name to be affixed to the birth certificate of the child;

4. He has commenced a judicial proceeding claiming parental right;

5. He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

6. He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

A putative father shall not be made a party defendant if none of the requirements set forth above have been met, and a biological parent shall not be made a party defendant if the parental rights of that parent have been terminated under KRS Chapter 625, or under a comparable statute of another jurisdiction;

(c) The child's guardian, if it has one.

(d) If the care, custody, and control of the child has been transferred to the cabinet, or any other individual or individuals, institution, or agency, then the cabinet, the other individual or individuals, institution, or agency shall be named a party defendant, unless the individual or individuals, or the institution or agency is also the petitioner.

(2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the cabinet, individual, institution, or agency has custody of the child, the service of process upon the child shall be had by serving a copy of the summons in the action upon the cabinet, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.

(3) If the child's biological living parents, if the child is born in lawful wedlock, or if the child is born out of wedlock, its mother, and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

➔Section 4. KRS 199.500 is amended to read as follows:

(1) An adoption shall not be granted without the voluntary and informed consent, as defined in KRS 199.011, of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that the consent of the living parent or parents shall not be required if:

(a) The parent or parents have been adjudged mentally disabled and the judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of the parents have been terminated under KRS Chapter 625;

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child; or

(d) The biological parent has not established parental rights as required by KRS 625.065.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for the parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. The court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to the child.

(5) An adoption shall not be granted or a consent for adoption be held valid if the consent for adoption is given prior to seventy-two (72) hours after the birth of the child. A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable ***seventy-two (72) hours***~~[twenty (20) days]~~ after it is signed.

➔Section 5. KRS 625.065 is amended to read as follows:

(1) The putative father of a child shall be made a party and brought before the circuit court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exists:

(a) He is known and voluntarily identified by the mother by affidavit;

(b) He has registered with the cabinet pursuant to KRS 199.503 as a putative father prior to the birth of the child, or if he did not have notice prior to the birth of the child, within ***twenty-one (21)***~~[thirty (30)]~~ days after the birth of the child;

(c) He has caused his name to be affixed to the birth certificate of the child;

(d) He has commenced a judicial proceeding claiming parental right;

(e) He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributing to the child's support; or

(f) He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

(2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

➔Section 6. KRS 199.505 is amended to read as follows:

(1) An attorney or child-placing agency that arranges a prospective adoption may at any time request that the cabinet search the putative father registry established under KRS 199.503 to determine whether a putative father is registered in relation to a mother whose child is the subject of the adoption.

(2) An attorney or child-placing agency that arranges a prospective adoption may at any time serve the putative father of a child or cause the putative father to be served with actual notice that the mother of the child is considering an adoptive placement for the child.

(3) ***Beginning July 14, 2018,*** whenever a petition for adoption is filed, the attorney or child-placing agency that arranges the adoption shall request that the cabinet search the putative father registry at least one (1) day after the expiration of the period specified by KRS 199.480(1)(b)2.

(4) No later than five (5) days after receiving a request under subsection (1) or (3) of this section, the cabinet shall submit an affidavit to the requesting party verifying whether a putative father is registered in relation to a mother whose child is the subject of the adoption.

(5) Whenever the cabinet finds that one (1) or more putative fathers are registered, the cabinet shall submit a copy of each registration form with its affidavit.

(6) A court shall not grant an adoption unless the cabinet's affidavit under this section is filed with the court.

(7) An adoption involving a foreign-born child, an adoption initiated out-of-state, or a public agency adoption shall not be subject to the requirements of this section.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

A child who is placed in foster care shall be considered a primary partner and member of a professional team. A foster child, as the most integral part of the professional team, shall have the following rights to:

(1) Adequate food, clothing, and shelter;

(2) Freedom from physical, sexual, or emotional injury or exploitation;

(3) Develop physically, mentally, and emotionally to his or her potential;

(4) A safe, secure, and stable family;

(5) Individual educational needs being met;

(6) Remain in the same educational setting prior to removal, whenever possible;

(7) Placement in the least restrictive setting in close proximity to his or her home that meets his or her needs and serves his or her best interests to the extent that such placement is available;

(8) Information about the circumstances requiring his or her initial and continued placement;

(9) Receive notice of, attend, and be consulted in the development of case plans during periodic reviews;

(10) Receive notice of and participate in court hearings;

(11) Receive notice of and explanation for changes in placement or visitation agreements;

(12) Visit the family in the family home, receive visits from family and friends, and have telephone conversations with family members, when not contraindicated by the case plan or court order;

(13) Participate in extracurricular, social, cultural, and enrichment activities, including but not limited to sports, field trips, and overnights;

(14) Express opinions on issues concerning his or her care or treatment;

(15) Three (3) additional rights if he or she is age fourteen (14) years or older. These additional three (3) rights are the right to:

(a) Designate two (2) additional individuals to participate in case planning conferences or periodic reviews, who are not the foster parent or his or her worker, and who may advocate on his or her behalf. The cabinet, child-caring-facility, or child-placing agency may reject an individual with reasonable belief that the individual will not act appropriately on the child's behalf;

(b) Receive a written description of the programs and services that will help prepare him or her for the transition from foster care to successful adulthood; and

(c) Receive a consumer report yearly until discharged from care and to receive assistance in interpreting and resolving any inaccuracies in the report, pursuant to 42 U.S.C. sec. 675(5)(I); and

(16) Receive, free of charge when he or she is eighteen (18) years or older and preparing to exit foster care by reason of attaining the age of eighteen (18) years old, the following:

(a) An official birth certificate;

(b) A Social Security card;

(c) Health insurance information;

(d) A copy of the child's medical records; and

(e) A state-issued identification.

➔Section 8. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the biological family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Children's advocacy center" means an agency that advocates on behalf of children alleged to have been abused; that assists in the coordination of the investigation of child abuse by providing a location for forensic interviews and medical examinations, and by promoting the coordination of services for children alleged to have been abused; and that provides, directly or by formalized agreements, services that include, but are not limited to, forensic interviews, medical examinations, mental health and related support services, court advocacy, consultation, training, and staffing of multidisciplinary teams;

(5) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

(a) Removed from his parents or person exercising custodial control or supervision and subsequently placed in the custody of the cabinet; and

(b) Placed in a foster home or private child-caring facility or child-placing agency but remains under the supervision of the cabinet;

(6) "Local citizen foster care review board" means a citizen board which provides periodic permanency reviews of children placed in the custody of the cabinet by a court order of temporary custody or commitment under this chapter;

(7) "Multidisciplinary teams" means local teams operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse pursuant to KRS 431.600;

(8) "Pediatric abusive head trauma" means the various injuries or conditions that may result following the vigorous shaking, slamming, or impacting the head of an infant or young child. These injuries or conditions, also known as pediatric acquired abusive head trauma, have in the past been called "Shaken Baby Syndrome" or "Shaken Infant Syndrome." Pediatric abusive head trauma injuries or conditions have included but are not limited to the following:

(a) Irreversible brain damage;

(b) Blindness;

(c) Retinal hemorrhage;

(d) Eye damage;

(e) Cerebral palsy;

(f) Hearing loss;

(g) Spinal cord injury;

(h) Paralysis;

(i) Seizures;

(j) Learning disability;

(k) Death;

(l) Central nervous system injury as evidenced by central nervous system hemorrhaging;

(m) Closed head injury;

(n) Rib fracture; and

(o) Subdural hematoma;

(9) "Permanence" means a relationship between a child and an adult which is intended to last a lifetime, providing commitment and continuity in the child's relationships and a sense of belonging;

(10) ***"Position of authority" has the same meaning as in KRS 532.045;***

(11) "Position of special trust" has the same meaning as in KRS 532.045;

(12) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(13) ~~[(11)]~~ "Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;

(14) ~~[(12)]~~ "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(15) ~~[(13)]~~ "State citizen foster care review board" means a board created by KRS 620.310.

➔Section 9. KRS 620.030 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or ***to*** the Department of Kentucky State Police~~,[;]~~ the cabinet or its designated representative~~,[;]~~ the Commonwealth's attorney**,** or the county attorney~~[;]~~ by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a

parent, guardian, ***fictive kin, person in a position of authority, person in a position of special trust,*** or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, ***fictive kin, person in a position of authority, person in a position of special trust,*** person exercising custodial control or supervision, or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) or (3) of this section, file with the local law enforcement agency or the Department of Kentucky State Police***, the cabinet or its designated representative,*** ~~[, or]~~ the Commonwealth's ***attorney,*** or county attorney~~[, the cabinet or its designated representative]~~ within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect, or abuse, including any previous charges of dependency, neglect, or abuse, to this child or his or her siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) Any person who knows or has reasonable cause to believe that a child is a victim of human trafficking as defined in KRS 529.010 shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; or the cabinet or its designated representative; or the Commonwealth's attorney or the county attorney; by telephone or otherwise. This subsection shall apply regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, ***fictive kin, person in a position of authority, person in a position of special trust,*** or person exercising custodial control or supervision.

(4) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(5) The cabinet upon request shall receive from any agency of the state or any other agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

(6) ***Nothing in this section shall limit the cabinet's investigatory authority under KRS 620.050 or any other obligation imposed by law.***

(7) Any person who intentionally violates the provisions of this section shall be guilty of a:

(a) Class B misdemeanor for the first offense;

(b) Class A misdemeanor for the second offense; and

(c) Class D felony for each subsequent offense.

➔Section 10. KRS 620.040 is amended to read as follows:

(1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, ***fictive kin, person in a position of authority, person in a position of special trust,*** or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), or a report alleging a child is a victim of human trafficking pursuant to KRS 620.030(3), the recipient of the report shall immediately notify the cabinet or its designated

representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or the Department of Kentucky State Police concerning the action that has been taken on the investigation.

(d) If the report alleges abuse or neglect by someone other than a parent, guardian, ***fictive kin, person in a position of authority, person in a position of special trust,*** or person exercising custodial control or supervision, or the human trafficking of a child, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or the Department of Kentucky State Police.

(2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection unless the report involves the human trafficking of a child, in which case the notification shall be required.

(3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, ***fictive kin, person in a position of authority, person in a position of special trust,*** or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or the Department of Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents, and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse or human trafficking of a child.

(4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant, a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he or she is returned to the persons having custody of him or her, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury, is being sexually abused, or is a victim of human trafficking and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve

(12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.

(7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include but shall not be limited to social service workers employed by the Cabinet for Health and Family Services and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates including advocates for victims of human trafficking, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team shall review child sexual abuse cases and child human trafficking cases involving commercial sexual activity referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse or child human trafficking cases involving commercial sexual activity are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.

(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases and child human trafficking cases involving commercial sexual activity.

(f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

(i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

(8) Nothing in this section shall limit the cabinet's investigatory authority under KRS 620.050 or any other obligation imposed by law.

➔Section 11. KRS 620.180 is amended to read as follows:

(1) The cabinet may promulgate administrative regulations to implement the provisions of this chapter. The cabinet may also promulgate administrative regulations pursuant to the requirements of Public Law 96-272 as to the maximum number of children who at any time during a fiscal year, will remain in foster care after having been in such care for a period in excess of twenty-four (24) months, together with the steps to be taken to achieve such goal.

(2) The cabinet shall promulgate administrative regulations to provide the following:

(a) The method used to periodically review the status of children placed in foster family homes which shall include, but not be limited to, the following:

1. Within ten (10) calendar days of the temporary removal hearing provided for in this chapter, a case conference shall be held on all children placed with the cabinet for the purpose of establishing a specific treatment plan which may include preventive and reunification services for the child and his parent or other person exercising custodial control or supervision. Additional case conferences and reviews shall be held as appropriate, but shall be held at least every six (6) months. The parent or other person exercising custodial control or supervision and his counsel, if any, shall have the right to be present at and participate in such conferences. The child; the child's attorney, if any; the parent or other person exercising custodial control or supervision and his attorney of record, if any; and the county attorney shall be notified of, and may be present at and participate in such conferences;

2. On-going case work and supportive services shall be provided as indicated to best meet the needs of the child as established by the review and planning process; and

3. There may be procedures for providing for appropriate visitation between the parents and the child based on the needs of the child;

(b) The procedures for reporting to a committing court the status and plans for children committed to the cabinet as dependent, neglected or abused and placed in foster family homes;~~[and]~~

(c) By January 1, 2019, the establishment and implementation of the processes, procedures, and requirements to ensure that children committed to the cabinet as dependent, neglected, or abused and placed in foster family homes are timely reunified with their biological family or identified for and placed in a new permanent home. These processes, procedures, and requirements shall include but not be limited to the following:

1. A case review and recommendation submitted to the committing court related to whether the best interest of the child is reunification or termination of parental rights after the child has been committed to the cabinet a total of six (6) cumulative months;

2. An additional case review and recommendation submitted to the committing court every three (3) cumulative months after the initial six (6) months if a child is still in the custody of the cabinet;

3. A petition to the court of appropriate jurisdiction seeking the termination of parental rights and authority to place the child for adoption in accordance with this chapter and KRS Chapter 625 no later than after a child has been committed to the cabinet for a total of fifteen (15) cumulative months out of forty-eight (48) months; and

4. A plan to ensure, no longer than thirty (30) working days after a court enters a judgment of termination of parental rights to a child that is committed to the cabinet, that the cabinet shall complete and submit to the court all necessary paperwork to facilitate the child's permanency plan, including but not limited to the presentation summary and identification of an adoptive home if determined***; and***

(d) By October 1, 2019, the establishment and implementation of the processes, procedures, and requirements to ensure that children committed to the cabinet as dependent, neglected, or abused and placed in qualified residential treatment facilities are subject to case reviews within sixty (60) days of the start of each placement in accordance with 42 U.S.C. sec. 675a(c)(2).

➔Section 12. Whereas the background checks authorized herein are vital for child safety and to ensure ongoing federal funding compliance, an emergency is declared to exist, and Section 1 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 19, 2019.

CHAPTER 34

(SB 145)

AN ACT relating to check cashing and deferred deposit service businesses.

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

➔Section 1. KRS 286.9-010 is amended to read as follows:

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

(1) "Affiliate" means a person who directly or indirectly through one (1) or more intermediaries controls or is controlled by, or is under common control with, a licensee;

(2) "Applicant" means a person filing an application or renewal application for a license ***in accordance with***~~[under]~~ this subtitle;

(3) "Archive" means to copy data to a long-term storage mechanism apart from the database;

(4) "Cashing" means providing currency for a payment instrument;

(5) "Check" means any check, draft, money order, personal money order, travelers' check, or other demand instrument for the transmission or payment of money;

(6) ***"Check cashing license" means a license issued pursuant to this subtitle by the commissioner to conduct the business of cashing checks in this Commonwealth;***

(7) "Closed" or "close" means that one (1) of the following has occurred in connection with a deferred deposit service transaction concerning the customer's payment instrument:

(a) The payment instrument is redeemed by the customer by payment to the licensee of the face amount of the payment instrument in cash;

(b) The payment instrument is exchanged by the licensee for a cashier's check or cash from the customer's financial institution;

(c) The payment instrument is deposited by the licensee, and the licensee has evidence that the person has satisfied the obligation;

(d) The payment instrument is collected by the licensee or its agent through any civil remedy available under the laws of this state; or

(e) Any other reason that the commissioner may deem to be proper under this subtitle;

(8)~~[(7)]~~ "Consideration" means any premium or fee charged of any kind for the sale of goods or services in excess of the cash price of the goods or services;

(9)~~[(8)]~~ "Control" means:

(a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent (25%) or more of a class of voting securities or voting interests of a licensee or applicant, or the person in control of a licensee or applicant;

(b) The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority over a licensee or applicant, or the person in control of a licensee or applicant; or

(c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or applicant, or the person in control of a licensee or applicant;

(10)~~[(9)]~~ "Customer" means a person who inquires into the availability of or applies for a deferred presentment service transaction or a person who enters into a deferred presentment service transaction;

(11)~~[(10)]~~ "Customer transaction data" means all data reported to the database pertinent to a particular customer transaction, including the date of the transaction, identification of the licensee and location, the sum of money involved, the time payment is deferred, fees charged, any alleged violations of this subtitle, and any identifying customer information;

(12)~~[(11)]~~ "Database" means the database described in KRS 286.9-140;

(13)~~[(12)]~~ "Database provider" means one (1) of the following:

(a) A third-party provider selected by the commissioner ***in accordance with*** ~~[under]~~KRS 286.9-140 to operate the statewide database described in that section; or

(b) The commissioner, if the commissioner has not selected a third-party provider ***in accordance with***~~[under]~~ KRS 286.9-140;

(14)~~[(13)]~~ ***"Deferred deposit service business license" means a license issued in accordance with this subtitle by the commissioner to conduct check cashing and deferred deposit service business in this Commonwealth;***

(15) "Deferred deposit service business" means a person who engages in deferred deposit transactions;

(16)~~[(14)]~~ "Deferred deposit transaction" or "deferred presentment service transaction" means, for consideration, accepting a payment instrument, and holding the payment instrument for a period of time prior to deposit or presentment in accordance with an agreement with or any representation made to the customer whether express or implied;

(17)~~[(15)]~~ "Delete" means to erase data by overwriting the data;

~~[(16) "Commissioner" means the commissioner of the Department of Financial Institutions;]~~

(18)~~[(17)]~~ "Identifying customer information" means the name of the customer, his or her Social Security number, driver license number, or other state-issued identification number, address, any account numbers or information specific to a payment instrument provided by a customer to a licensee, a bank, savings bank, savings and loan association, or credit union, and any other nonpublic, personal financial information of a customer entered into the database or that comes into the possession of the database provider through customer or licensee inquiry or report;

(19)~~[(18)]~~ "Licensee" means a person ***who has been issued either a check cashing license or a deferred deposit service business license***~~[duly licensed]~~ by the commissioner ***in accordance with*** ~~[under]~~ this subtitle to conduct check cashing or deferred deposit service business in the Commonwealth;

(20)~~[(19)]~~ "Maturity date" means the date on which a payment instrument is authorized to be redeemed or presented for payment; ***and***

~~[(20) "Department" means the Department of Financial Institutions;]~~

(21)~~[(21)]~~ "Payment instrument" means a check, draft, money order, or traveler's check, for the transmission or payment of money sold or issued to one (1) or more persons, whether or not such instrument is negotiable~~[; and~~

~~(22) "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity however organized]~~.

➔Section 2. KRS 286.9-071 is amended to read as follows:

The commissioner shall not issue additional deferred deposit service business licenses~~[for a period of ten (10) years after July 1, 2009]~~.

➔SECTION 3. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "registry" means the State Regulatory Registry, LLC, or its successor organization.

(2) When an application, report, or approval request is required under this subtitle to be filed with the commissioner, the commissioner may require, by administrative regulation or order, that the filing, including any applicable fees and any supporting documentation, be submitted to:

(a) The State Regulatory Registry, LLC, or its successor organization;

(b) The registry's parent, affiliate, or operating subsidiary; or

(c) Other agencies or authorities as part of a nationwide licensing system, which may act as an agent for receiving, requesting, and distributing information to and from any source directed by the commissioner.

(3) The commissioner may report violations of this subtitle, enforcement actions, and other relevant information to the registry, notwithstanding any provision of this subtitle to the contrary.

(4) The commissioner may use the registry as an agent for requesting information from and distributing information to the United States Department of Justice or other governmental agencies.

Signed by Governor March 19, 2019.

CHAPTER 35

(SB 192)

AN ACT relating to public finance.

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

➔Section 1. KRS 58.190 is amended to read as follows:

(1) As used in this section, "lease" has the same meaning as in KRS 65.940.

(2) Any action challenging the validity ***or enforceability*** of***:***

(a) Any ordinance or resolution adopted by any governmental agency ***approving the issuance of***~~[electing to issue]~~ bonds***,***~~[or]~~ notes***, or leases; or***~~[under this chapter or any other chapter of the Kentucky Revised Statutes,]~~

(b) Any bond, note, or lease approved by an ordinance or resolution;

shall be brought within thirty (30) days from the date on which notice of the adoption of ***the***~~[said]~~ ordinance or resolution is published in accordance with KRS Chapter 424***.***~~[, and]~~

(3) If ***the***~~[such]~~ action challenging the validity ***or enforceability*** of ***the ordinance, resolution, bond, note, or lease***~~[same]~~ is not brought within ***the***~~[such]~~ time ***provided by subsection (2) of this section***, ***the***~~[such]~~ action shall be forever barred.

➔Section 2. KRS 65.942 is amended to read as follows:

(1) ***(a)*** The governing body of a governmental agency may approve by ordinance, order, or resolution and may execute, perform, and make payments under a lease with any person, to acquire or construct personal property or real property for any public purpose.

(b) The lease may be on the terms and conditions that are deemed appropriate by the governing body.

(c) Leases may be payable in whole or in part from taxes and may be obligations of the governmental agency for the entire term of the lease or for a period that does not exceed one (1) year.

(d) Leases may contain an option or options to renew or extend the term and may be made payable from a pledge of all or any part of any revenues, funds, or taxes or any combination of any revenues, funds, or taxes, which are available to the governmental agency for its public purposes.

(2) ***(a)*** A governmental agency may pledge any revenues or taxes as security for payment under leases, and the leases may provide that the governmental agency may terminate its obligations under the lease at the expiration of each year during the term of the lease.

(b) A governmental agency may pledge any revenue or taxes as security for payment under a lease regardless of any right to terminate.

(c) The lease may provide for the payment of interest on the unpaid amount of the lease price at a rate, rates, or method of determining rates and may contain prepayment provisions, termination penalties, and other provisions determined by the governing body of the governmental agency.

(3) ***(a)*** Prior to entering into a lease for the financing of the purchase of any personal property or real property, a governmental agency shall comply with other provisions of law regarding the purchase of property for public purposes.

(b) The lease shall be deemed an instrument for financing and provisions of law regarding purchases of property for public use shall not apply to the lease itself.

(c) Leases may be entered into on a publicly advertised competitive basis or on a private negotiated basis without advertisement.

(4) A sinking fund prescribed by KRS 66.081 shall be established for the payment of leases which are not annually renewable and which are payable in whole or in part from taxes and lease payments under those leases shall be made from the sinking fund.

(5) (a) Any action challenging the validity or enforceability of any ordinance or resolution adopted by a governmental agency approving a lease shall be brought within thirty (30) days from the date on which notice of the adoption of the ordinance or resolution is published in accordance with KRS Chapter 424.

(b) If the action challenging the validity or enforceability of the ordinance or resolution is not brought within the time provided by paragraph (a) of this subsection, the action shall be forever barred.

➔Section 3. KRS 58.040 is amended to read as follows:

(1) Bonds issued pursuant to KRS 58.010 to 58.140 shall be negotiable and shall not be subject to taxation.

(2) If any officer whose signature or countersignature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, ***the officer's***~~[his]~~ signature or countersignature shall~~[nevertheless]~~ be valid and sufficient for all purposes~~[the same]~~ as if ***the officer***~~[he]~~ had remained in office until delivery.

(3) The bonds shall be sold in a manner and upon the terms as the governmental agency determines ***and as provided in Section 4 of this Act.***~~[, or]~~ Any contract for the acquisition of a public project may provide that payment shall be made in bonds.

(4) The bonds shall be payable solely from the revenue derived from the public project and shall not constitute an indebtedness of the state, county, city, or political subdivision within the meaning of the Constitution.

(5) It shall be plainly stated on the face of each bond that ***the bond***~~[it]~~ has been issued under the provisions of KRS 58.010 to 58.140 and that ***the bond***~~[it]~~ does not constitute an indebtedness of the governmental agency within the meaning of the Constitution.

➔Section 4. KRS 424.360 is amended to read as follows:

(1) Except in the case of:

(a) Bonds issued for the purpose of facilitating the construction, renovation, or purchase of new or existing housing as provided by KRS 58.125; or

(b) Bonds issued and sold pursuant to any section of the Constitution or the Kentucky Revised Statutes providing for the sale of bonds at a private, negotiated sale;

no sale of general obligation bonds or revenue bonds ***of any governmental unit, political subdivision, or agency thereof***~~[, except bonds issued for the purpose of facilitating the construction, renovation, or purchase of new or existing housing as set forth in KRS 58.125, of any governmental unit or political subdivision, or agency thereof,]~~ shall be made ***until***~~[except upon newspaper]~~ advertisements for bids ***are publicized.***~~[,]~~

(2) Advertisements for bids may be publicized by:

(a) Newspaper~~[published for the]~~ publication ***in the*** area constituted by the political subdivision or ***governmental***~~[government]~~ unit and published to afford statewide notice***; or***

(b) Posting a notice of sale to a nationally recognized electronic bidding system.~~[If the bonds are in principal amount of ten million dollars ($10,000,000) or more, an advertisement for bids shall also be published in a publication having general circulation among bond buyers.]~~

➔Section 5. KRS 103.200 is amended to read as follows:

As used in KRS 103.200 to 103.285:

(1) "Building" or "industrial building" means any land and building or buildings (including office space related and subordinate to any of the facilities enumerated below), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:

(a) Any activity, business, or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining, or manufactured products, together with storage, warehousing, and distribution facilities in respect thereof;

(b) Any undertaking involving the construction, reconstruction, and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails, or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;

(c) Any buildings, structures, and facilities, including the site thereof and machinery, equipment, and furnishings suitable for use as health-care or related facilities, including without limitation hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures, and facilities deemed necessary or useful in connection therewith;

(d) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational, and medical research and treatment facilities;

(e) Any facilities for any recreation or amusement park, public park, or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;

(f) Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value-added functions, or supply ingredients used for production of basic agricultural crops and products;

(g) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial use;

(h) Any facilities for the furnishing of water, if available on reasonable demand to members of the general public;

(i) Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading, and distribution of mineral resources, together with related facilities;

(j) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;

(k) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;

(l) Any activity designed for the preservation of residential neighborhoods, provided that such activity receives approval of the heritage division and insures the preservation of not fewer than four (4) family units;

(m) Any activity designed for the preservation of commercial or residential buildings which are on the National Register of Historic Places or within an area designated as a national historic district or approved by the heritage division;~~[and]~~

(n) Any activity, including new construction, designed for revitalization or redevelopment of downtown business districts as designated by the issuer***; and***

(o) Any use by an entity recognized by the Internal Revenue Service as an organization described in 26 U.S.C. sec. 501(c)(3) in any manner related to or in the furtherance of that entity's exempt purposes where the use would also qualify for federally tax-exempt financing under the rules applicable to a qualified 501(c)(3) bond as defined in 26 U.S.C. sec. 145.

(2) "Bonds" or "negotiable bonds" means bonds, notes, variable rate bonds, commercial paper bonds, bond anticipation notes, or any other obligations for the payment of money issued by a city, county, or other authority pursuant to KRS 103.210 to 103.285.

(3) "Substantiating documentation" means an independent finding, study, report, or assessment of the economic and financial impact of a project, which shall include a review of customary business practices, terms, and conditions for similar types of projects, both taxable and tax-exempt, in the current market environment.

➔Section 6. KRS 103.2101 is amended to read as follows:

(1) It shall be the duty of the state local debt officer to review only those projects authorized by KRS 103.200(1)(k), (l), (m), and (n), and only off-street parking facilities, cable television, and mass communication facilities

as authorized by KRS 103.200(1)(b), whether by cities, counties, urban-county governments, air boards, or riverport authorities. The Kentucky Private Activity Bond Allocation Committee shall review only those projects to be issued by the Kentucky Economic Development Finance Authority and authorized by KRS 103.200(1) (k), (l), (m), and (n). Such review shall include but need not be limited to the following:

(a) Whether the project creates long-term economic growth, creates or retains jobs in a previously designated empowerment or enterprise zone, or aids in the prevention or elimination of slums or blight;

(b) Whether there is substantiating documentation to demonstrate that the project places an unjustified competitive disadvantage on existing business in the area;

(c) Whether there is substantiating documentation to demonstrate that normal commercial financing is unavailable for this project or, if available, at what rates it must be secured and under what terms and conditions;

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451; and

(e) The project's economic soundness.

(2) If the committee or the state local debt officer finds that the project does not meet all of the above listed criteria, it shall deny approval of the project until the objections thereto have been met.

(3) The committee and the state local debt officer may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(4) The committee and the state local debt officer, within fourteen (14) days of receiving application, shall notify in writing the agency or unit of government proposing the issuance of bonds, the appropriate county judge/executive, mayor, and school superintendent, and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall~~[, not less than thirty (30) days before the date of the hearing,]~~ publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein. A hearing officer may conduct the hearing with a proposed order to the committee or the state local debt officer.

(5) The committee and the state local debt officer shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (1) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until the project has been approved by the committee.

(6) When the revenues of the respective local government or school district are negatively impacted by the project, the committee and the state local debt officer shall require submission of a written statement of assurance that the appropriate county judge/executive, mayor, and school superintendent are in agreement with the negotiated financial arrangement. This written statement of assurance shall be used for advisory purposes.

(7) The maximum length of any bond authorization under this section shall not exceed the anticipated useful life of the building or equipment purchased or ***forty (40)***~~[thirty (30)]~~ years, whichever is shorter.

➔Section 7. KRS 424.130 is amended to read as follows:

(1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one (1) time only and within thirty (30) days after completion of the act. However, a failure to comply with this paragraph shall not ***invalidate any ordinance or resolution or*** subject a person to any of the penalties provided by

KRS 424.990 unless such failure continues for a period of ***fifteen (15)*** ~~[ten (10)]~~ days after notice to comply has been given him by registered letter.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement shall be published at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event.

(c) When an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published either:

1. Once a week for three (3) consecutive weeks; or

2. One (1) time, preceded by a one-half (1/2) page notice of advertisement the preceding week. The one-half (1/2) page advertisement shall include notice that a list of uncollectible delinquent taxes is also available for public inspection in accordance with KRS 424.330 during normal business hours at the business address of the city or county and on an identified Internet Web site. The advertisement shall include the business address of the city or county and the Uniform Resource Locator (URL) for the Internet Web site where the document can be viewed. The Internet Web site shall be affiliated with the city or county and contain other information about the city or county government. The delinquent tax list shall be posted on the Internet Web site for a minimum of thirty (30) days and shall be updated weekly.

The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

(d) Any advertisement not coming within the scope of paragraph (a), (b), or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event, or in the case of an inspection period, the inspection period commences.

(e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

➔Section 8. KRS 66.310 is amended to read as follows:

(1) No county may issue bonds which, together with all other net indebtedness of the county plus the principal amount of any outstanding self-supporting obligations, is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the next preceding certified assessment, without having first secured the written approval of the state local debt officer. Any other bonds to be issued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local debt officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue of county bonds voluntarily as provided in this section, all bonds thereafter issued by the county must be approved as provided in this section.

(2) Without the approval of the state local debt officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless the bonds, if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If his or her approval is required, the state local debt officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under subsections (3) and (4) of this section, and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals

thereafter of leases entered into before that date, nor to bonds referred to in this subsection if those bonds have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.

(3) The state local debt officer shall hold a hearing in accordance with KRS Chapter 13B for the purpose of determining whether any issue of bonds submitted to him or her for approval should be approved or disapproved. The state local debt officer shall provide notice of the hearing to the county judge/executive of the county proposing to issue bonds, and the county judge/executive shall cause a copy of that notice to be published~~[not less than twenty (20) days]~~ in advance of the date set for the hearing ***as provided in Section 7 of this Act***. Any person having a material interest in the issuance of the bonds shall have an opportunity to be heard and to present evidence at the hearing held by a hearing officer appointed by the state local debt officer. A record of the proceedings of the hearing shall be made, and the state local debt officer shall review the record and prepare a written decision approving or disapproving the issuance of the proposed bonds. The decision shall set forth the findings of fact upon which the state local debt officer bases his or her decision. On the day that the state local debt officer issues a decision, he or she shall mail a copy to the county judge/executive of the county proposing to issue the bonds and to any person who attended the hearing and requested to receive a copy of the decision.

(4) The state local debt officer shall disapprove the issuance of the proposed bonds if he or she finds that one (1) or more of the following conditions exist:

(a) The financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county, including the debt service on the other outstanding obligations of the county;

(b) The issue of bonds will not serve the best interests of both the county issuing the bonds and a majority of its creditors; or

(c) The bonds or the issuance thereof will be invalid.

(5) If the state local debt officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local debt officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he or she shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be sufficient to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.

(6) Within thirty (30) days after the date of a decision by the state local debt officer approving a county's proposal to issue bonds, any interested party or taxpayer of the county ***that presented evidence at the hearing required by subsection (3) of this section*** may appeal to the Circuit Court of the county proposing to issue the bonds. Appeal shall be taken by filing a complaint with the clerk of the court and serving a copy of the complaint upon the state local debt officer by certified mail, return receipt requested. The fiscal court and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. The state local debt officer shall not be named as a party to an appeal under this subsection, but shall be allowed to intervene in the appeal upon his or her motion. Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. Within thirty (30) days of receipt of the complaint, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision with the Circuit Court.

(7) A county proposing to issue bonds may appeal a decision of the state local debt officer disapproving the issuance of the bonds by filing a complaint with the Franklin Circuit Court within thirty (30) days after the date of the decision. The state local debt officer shall be named as a defendant in an appeal under this subsection. Summons shall be issued and served as provided in the Rules of Civil Procedure. With his or her answer, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision.

(8) Appeals to the Circuit Court shall be advanced on the docket and shall be heard and decided upon the record certified by the state local debt officer. The findings of fact of the state local debt officer shall be final if supported by any substantial evidence; however, if only the question of the validity of the bonds proposed to be funded or refunded is in issue, additional evidence relating to the validity of the bonds may be presented.

(9) An appeal may be taken from the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

(10) If no appeal is taken from the approval of a bond issue by the state local debt officer as provided in this section, the decision as to the legality of the bonds shall be res judicata in any subsequent case or cases raising the question of their legality.

(11) Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local debt officer shall be filed with the Secretary of State.

(12) As used in this section, bonds means bonds and obligations.

➔Section 9. KRS 66.400 is amended to read as follows:

(1) As used in this section:

(a) "Bond" has the same meaning as in KRS 66.011 and is issued according to the provisions of KRS 66.011 to 66.191;

(b) "Lease" has the same meaning as in KRS 65.940 and is entered into under the provisions of KRS 65.940 to 65.956; and

(c) "Local government" has the same meaning as in KRS 44.001.

(2) Any taxing agency or instrumentality as defined in Chapter IX of the Federal Bankruptcy Act as amended by the Acts of Congress of August 16, 1937, Chapter 657, June 22, 1938, Chapter 575, March 4, 1940, Chapter 41, June 28, 1940, Chapter 438 and acts amendatory and supplementary thereto or acts extending the date of expiration thereof, as the same may be amended or extended from time to time, may file a petition for the composition of its debts and to do all things necessary to comply with the provisions of the Federal Bankruptcy Act. No county shall file a petition as provided in the Federal Bankruptcy Act unless the proposed plan is first approved by the state local debt officer and the state local finance officer, as defined in KRS 68.001. No changes or modifications shall be made in the plan of composition after the filing of the petition without the approval of the state local debt officer and the state local finance officer. The state local debt officer and the state local finance officer shall approve or disapprove the proposed plan of composition or any changes or modifications thereof under the same procedure and for the same reasons as bonds are approved or disapproved under KRS 66.280 to 66.390.

(3) (a) The revenues of a tax adopted:

1. According to KRS 66.111(1) for the payment of bonds shall be deemed pledged for the payment of the principal of and the premium and interest on the bonds; and

2. According to KRS 65.942(2) for the payment of a lease shall be deemed pledged for the payment of the principal and interest portions of a lease payment and any prepayment penalties on a lease;

whether or not the pledge is stated in the bonds, the lease, or in the proceedings authorizing the bonds or the lease.

(b) The holders of all bonds issued and leases entered into shall have a first lien on those tax revenues.

(c) There shall be a statutory lien on the tax revenues pledged in favor of the holders of all bonds issued and leases entered into, effective by operation of law, that shall apply to all outstanding bonds payable from taxes adopted according to KRS 66.111(1) and leases payable from taxes adopted according to KRS 65.942(2), without priority of one (1) bond or lease over another bond or lease, regardless of when the bonds were issued or the lease was entered into.

(d) No filing need be made under the Uniform Commercial Code or otherwise to perfect the lien on the tax revenues.

(e) The pledge of the tax shall constitute a sufficient appropriation, and the tax revenues shall be applied as required by the pledge, without the requirement for further appropriation.

(4) Amounts appropriated for the payment of any obligation that is subject to annual renewal, including but not limited to leases entered into under the provisions of KRS 58.010 to 58.205 or KRS 65.940 to 65.956, shall be deemed pledged for payment according to subsection (3)(a) of this section, and the holders of all

bonds issued or leases entered into shall have a first lien on those appropriations commencing on the date of the appropriation.

(5) (a) The public property of any local government, of every character and description, used for government or public purposes, is exempt from seizure by attachment, execution, or other legal process, except as provided in subsections (7) and (8) of this section.

(b) A local government's funds in the hands of its treasurer or a depository shall not be subject to garnishment or other legal process, except as provided in subsections (6), (7), and (8) of this section.

(6) (a) Except for judgments covered under KRS 65.2004, any local government against which final judgment has been rendered for a claim that is not fully covered by insurance may make a motion to the Circuit Court to enter an order for the payment of money damages, in whole or in part, through a periodic payment schedule for a period of time not to exceed ten (10) years.

(b) A court entering an order in response to a motion made by a local government under paragraph (a) of this subsection shall consider the ability of the local government to pay the judgment without a substantial disruption to the essential public services provided by the local government. The court shall consider the following factors in evaluating the motion and in setting a periodic payment schedule:

1. The funds available in the local government's current fiscal year and other funds available to the local government to pay the damages in the remainder of the local government's fiscal year during which the final judgment was entered;

2. The total revenues reasonably expected to be collected by the local government in subsequent fiscal years based upon the historical collections in previous fiscal years;

3. The total expenses of the local government in subsequent years for the costs associated with the provision of essential public services, the payment of debt service for the existing obligations of the local government, and any other expenses reasonably necessary for the efficient administration of the local government, including personnel, operation, and maintenance costs associated with existing infrastructure, and new costs which may be reasonably anticipated for the local government; and

4. If the award for damages is an amount that exceeds twenty-five percent (25%) of the total revenues collected by the local government in the immediately preceding fiscal year, the court may also consider any revenue or debt financing options that are reasonably available to the local government that could be employed to help satisfy the judgment.

(c) An order entered by the court establishing a periodic payment schedule shall specify the total amount awarded, the amount of each payment, the interval between payments, and the number of payments to be paid under the order.

(d) Any judgment paid pursuant to the periodic payment schedule established under this subsection shall bear interest accruing from the date final judgment is entered at one-half (1/2) the interest rate provided by KRS 360.040.

(e) Upon petition to the court, the court may modify a periodic payment schedule established in this subsection for good cause shown by the local government. The modification may include changes to the amount of payments, the number of payments, and the period of payments, but in no case shall an adjustment pursuant to this paragraph alter the total amount of damages to be paid, exclusive of interest, in the original order.

(7) Subject to the provisions of subsection (6) of this section, a court may enter an order providing for the attachment, execution, garnishment, or seizure by other legal process of public property, including moneys, of a local government only upon a finding that:

(a) The local government has failed to comply with an order, modified order, or judgment entered by the court as provided by subsection (6) of this section or KRS 65.2004;

(b) After a period of twenty-four (24) months, the local government did not petition the court to enter an order for the payment of money damages, in whole or in part, through a periodic payment schedule as provided by subsection (6) of this section or KRS 65.2004 and has not paid in full the total damages awarded under the judgment; or

(c) The judgment for damages was not of the type that permitted the court to enter an award of periodic damages, and the local government has failed to pay the damages due in full after the passage of twenty-four (24) months from the entry of a final judgment.

(8) (a) Any order providing for the attachment, execution, garnishment, or seizure by other legal process of public property, including moneys, of a local government shall not impair the ability of the local government to continue to provide essential services to the public, including the payment of key personnel needed for the provision of those services and those employees necessary for the collection of revenues on behalf of the local government.

(b) In making a determination as to the appropriate extent of an order under this subsection, a court shall consider but shall not be limited to the factors provided in subsection (6)(b) of this section.

(9) Nothing in this section shall:

(a) Bar the pursuit of any other remedies that exist to enforce a judgment under state law; or

(b) Prohibit a local government and a judgment creditor from entering into an agreement for the payment of damages under terms and conditions that differ from the remedies and process established under this section.

Signed by Governor March 19, 2019.

CHAPTER 36

(SB 149)

AN ACT relating to independent external review claims.

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

➔Section 1. KRS 205.646 is amended to read as follows:

(1) As used in this section:

(a) "Administrative appeals hearing" means a formal adjudicatory proceeding conducted by the administrative hearing tribunal of the Cabinet for Health and Family Services in accordance with KRS Chapter 13B;

(b) "Department" means the Department for Medicaid Services;

(c) "External independent third-party review" means a review performed by an independent third party outside of the Medicaid managed care organization's internal appeal process pursuant to administrative regulations promulgated by the department;

(d) "Medicaid managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. sec. 438.2; and

(e) "Provider" means any person or entity licensed in Kentucky as defined in KRS 304.17A-700(9) that provides covered services to enrollees.

(2) Notwithstanding any law to the contrary, a provider who has exhausted the written internal appeals process of a Medicaid managed care organization shall be entitled to an external independent third-party review of the Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to a provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization. ***A provider may submit*** multiple claims ***to***~~[may]~~ be ***appealed***~~[determined]~~ in ***a single external independent third-party review if the provider alleges that a Medicaid managed care organization has implemented a policy or practice that results in the denial, in whole or in part, of those claims***~~[one (1) action upon request of a party in accordance with administrative regulations promulgated by the department]~~.

(3) A Medicaid managed care organization's letter to a provider reflecting the final decision of the provider's internal appeal shall include:

(a) A statement that the provider's internal appeal rights within the Medicaid managed care organization have been exhausted;

(b) A statement that the provider is entitled to an external independent third-party review; and

(c) The time period and address to request an external independent third-party review.

(4) ***A Medicaid managed care organization or provider*** ~~[A party]~~ shall be entitled to appeal a final decision of the external independent third-party review to the administrative hearing tribunal within the Cabinet for Health and Family Services for an administrative hearing to be held in accordance with KRS Chapter 13B. An appeal shall be filed within thirty (30) days from the appealing party's receipt of the final decision of the external independent third-party review. A decision of the administrative hearing tribunal shall be final for purposes of judicial appeal. ***Any appeal of a final decision of an external independent third-party review involving the submission of multiple claims as allowed under subsection (2) of this section shall be conducted as a single administrative hearing under this subsection.***

(5) Within one hundred twenty (120) days after April 8, 2016, the department shall promulgate administrative regulations to implement the external independent third-party review as required by this section.

(6) The department shall promulgate administrative regulations to establish reasonable fees, not to exceed one thousand dollars ($1,000), to defray expenses associated with an administrative hearing that shall be paid by the party who does not prevail in the administrative hearing. ***If the administrative hearing is an appeal of a final decision of an external independent third-party review involving the submission of multiple claims as allowed under subsection (2) of this section, only one (1) fee shall be assessed under this subsection against the party who does not prevail.***

(7) This section shall apply to all contracts or master agreements between Medicaid managed care organizations and the Commonwealth of Kentucky entered into or renewed on or after July 1, 2016.

Signed by Governor March 19, 2019.

CHAPTER 37

(HB 5)

AN ACT relating to the human rights of unborn children to not be discriminated against and declaring an emergency.

WHEREAS, the purpose of this Act is to protect the rights of unborn children by prohibiting physicians and other medical professionals from performing abortive procedures for discriminatory purposes; and

WHEREAS, state, federal, and international law supports the rights of all people to dignity, equality, and freedom from discrimination based on sex, race, color, national origin, or disability; and

WHEREAS, the Declaration of Independence recognizes the fundamental truth that all people have been endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness; and

WHEREAS, the Constitution of this Commonwealth guarantees that all people have the right of seeking and pursuing their safety and happiness; and

WHEREAS, the Commonwealth of Kentucky statutorily recognizes an unborn child as a human being from conception onward, without regard to age, health, or condition of dependency; and

WHEREAS, the Kentucky General Assembly has already enacted a statute that reads "currently, in the Commonwealth, there is inadequate legislation to protect the life, health, and welfare of pregnant women and unborn human life"; and

WHEREAS, the Commonwealth of Kentucky statutorily bans discrimination against individuals based on sex, race, color, national origin, or disability; and

WHEREAS, these statutory acknowledgments of the unborn child's humanity and the rights of persons, regardless of sex, race, color, national origin, or disability, to live unencumbered by discrimination compel a recognition of the imperative to prevent the ending of an unborn child's life for discriminatory purposes; and

WHEREAS, this Act establishes a reasonable accommodation for unborn children through the prohibition of discriminatory abortive procedures so that they may enjoy the right to life, dignity, and equality regardless of sex, race, color, national origin, or disability; and

WHEREAS, the Supreme Court of the United States of America has recognized that states have a legitimate interest in protecting the life of the unborn; and

WHEREAS, recognizing the human rights of an unborn child does not contravene prior Supreme Court jurisprudence nor undermine a woman's right to self-determination or bodily autonomy, but instead upholds the state's legitimate interest in protecting the lives of unborn human beings and the rights of persons regardless of sex, race, color, national origin, or disability; and

WHEREAS, the right to bodily autonomy and self-determination is separate and distinct from the termination of a pregnancy based on the unborn child's sex, race, color, national origin, or disability; and

WHEREAS, moral and philosophical concepts of dignity hold that all human beings are entitled to receive ethical and humane treatment and are to be respected and valued in all phases of life, regardless of sex, race, color, national origin, or disability; and

WHEREAS, certain abortive medical procedures are unfairly discriminatory against unborn children because of their sex, race, color, national origin, or disability is in contravention of their unalienable rights; and

WHEREAS, children born, regardless of their sex, race, color, national origin, or disability, can live full and healthy lives and become upstanding and valuable members of communities within the Commonwealth;

NOW, THEREFORE,

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

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

(1) As used in this section:

(a) "Abortion facility" has the same meaning as in KRS 216B.015;

(b) "Any other disability" means any disease, defect, or disorder, whether or not genetically inherited. The term includes but is not limited to the following:

1. A physical disability;

2. A mental or intellectual disability;

3. A physical disfigurement;

4. Scoliosis;

5. Dwarfism;

6. Albinism;

7. Amelia; or

8. A physical or mental disease.

However, the term does not include a lethal fetal anomaly;

(c) "Corporation" has the same meaning as in KRS 271B.1-400;

(d) "Down syndrome" means a chromosome disorder associated either with an extra chromosome twenty-one (21), in whole or in part, or an effective trisomy for chromosome twenty-one (21);

(e) "Human being" has the same meaning as in KRS 311.720;

(f) "Medical emergency" has the same meaning as in KRS 311.720;

(g) "Person" includes any human being and any corporation;

(h) "Physician" has the same meaning as in KRS 311.720; and

(i) "Unborn child" has the same meaning as in KRS 311.781.

(2) No person shall intentionally perform or induce or attempt to perform or induce an abortion on a pregnant woman if the person has knowledge that the pregnant woman is seeking the abortion, in whole or in part, because of any of the following:

(a) The sex of the unborn child;

(b) The race, color, or national origin of the unborn child; or

(c) The diagnosis, or potential diagnosis, of Down syndrome or any other disability;

except in the case of a medical emergency.

(3) In the report required under Section 6 of this Act, the attending physician shall certify in writing whether the attending physician had knowledge that the pregnant woman was seeking the abortion, in whole or in part, because of any of the following:

(a) The sex of the unborn child;

(b) The race, color, or national origin of the unborn child; or

(c) The diagnosis, or potential diagnosis, of Down syndrome or any other disability.

(4) The State Board of Medical Licensure shall revoke a physician's license to practice medicine in this state if the physician violates subsection (2) of this section.

(5) The Cabinet for Health and Family Services shall revoke the license of any person, including a licensed abortion facility, who violates subsection (2) of this section.

(6) Any physician or other person who violates subsection (2) of this section is liable in a civil action for compensatory and punitive damages and reasonable attorney's fees to any person, including an unborn child, or the representative of the estate of any person, including an unborn child, who sustains injury, death, or loss to person or property as the result of the performance or inducement or the attempted performance or inducement of the abortion. In any action under this subsection, the court also may award any injunctive or other equitable relief that the court considers appropriate.

(7) A pregnant woman on whom an abortion is performed or induced or attempted to be performed or induced in violation of subsection (2) of this section is not guilty of violating subsection (2) of this section or of attempting to commit, conspiring to commit, or complicity in committing a violation of subsection (2) of this section.

(8) If any provision of this section is held invalid, or if the application of any provision of this section to any person or circumstance is held invalid, the invalidity of that provision does not affect any other provisions or applications of this section or KRS 311.710 to 311.820 that can be given effect without the invalid provision or application, and to this end the provisions of this section and KRS 311.710 to 311.820 are severable. In particular, it is the intent of the General Assembly that any invalidity or potential invalidity of a provision of this section is not to impair the immediate and continuing enforceability of any other provisions of this section and KRS 311.710 to 311.820. It is furthermore the intent of the General Assembly that the provisions of this section are not to have the effect of repealing or limiting any other laws of this state.

➔Section 2. KRS 311.595 is amended to read as follows:

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

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;

(2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;

(3) Committed, procured, or aided in the procurement of an unlawful abortion, including a partial-birth abortion ***or an abortion in violation of Section 1 of this Act***;

(4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if in accordance with KRS Chapter 335B;

(5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;

(6) Become addicted to a controlled substance;

(7) Become a chronic or persistent alcoholic;

(8) Been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine;

(9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;

(10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;

(11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;

(12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;

(13) Violated any agreed order, letter of agreement, final order, or emergency order issued by the board;

(14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;

(15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;

(16) Willfully violated a confidential communication;

(17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;

(18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;

(19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;

(20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action;

(21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action; or

(22) Failed to comply with the requirements of KRS 213.101, 311.782, or 311.783 or failed to submit to the Vital Statistics Branch in accordance with a court order a complete report as described in KRS 213.101.

➔Section 3. KRS 311.725 is amended to read as follows:

(1) No abortion shall be performed or induced except with the voluntary and informed written consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(a) At least twenty-four (24) hours prior to the abortion, a physician, licensed nurse, physician assistant, or social worker to whom the responsibility has been delegated by the physician has verbally informed the woman of all of the following:

1. The nature and purpose of the particular abortion procedure or treatment to be performed and of those medical risks and alternatives to the procedure or treatment that a reasonable patient would consider material to the decision of whether or not to undergo the abortion;

2. The probable gestational age of the embryo or fetus at the time the abortion is to be performed; and

3. The medical risks associated with the pregnant woman carrying her pregnancy to term;

(b) At least twenty-four (24) hours prior to the abortion, in an individual, private setting, a physician, licensed nurse, physician assistant, or social worker to whom the responsibility has been delegated by the physician has informed the pregnant woman that:

1. The cabinet publishes the printed materials described in paragraphs (a) and (b) of subsection (2) of this section and that she has a right to review the printed materials and that copies will be provided to her by the physician, licensed nurse, physician assistant, or social worker free of charge if she chooses to review the printed materials;

2. Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials published by the cabinet;~~[and]~~

3. The father of the fetus is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion; ***and***

4. It is illegal in Kentucky to intentionally perform an abortion, in whole or in part, because of:

a. The sex of the unborn child;

b. The race, color, or national origin of the unborn child; or

c. The diagnosis, or potential diagnosis, of Down syndrome or any other disability;

(c) At least twenty-four (24) hours prior to the abortion, a copy of the printed materials has been provided to the pregnant woman if she chooses to view these materials;

(d) The pregnant woman certifies in writing, prior to the performance or inducement of the abortion:

1. That she has received the information required to be provided under paragraphs (a), (b), and (c) of this subsection; and

2. That she consents to the particular abortion voluntarily and knowingly, and she is not under the influence of any drug of abuse or alcohol; and

(e) Prior to the performance or inducement of the abortion, the physician who is scheduled to perform or induce the abortion or the physician's agent receives a copy of the pregnant woman's signed statement, on a form which may be provided by the physician, on which she consents to the abortion and that includes the certification required by paragraph (d) of this subsection.

(2) By January 1, 1999, the cabinet shall cause to be published in English in a typeface not less than 12 point type the following materials:

(a) Materials that inform the pregnant woman about public and private agencies and services that are available to assist her through her pregnancy, upon childbirth, and while her child is dependent, including, but not limited to, adoption agencies. The materials shall include a comprehensive list of the available agencies and a description of the services offered by the agencies and the telephone numbers and addresses of the agencies, and inform the pregnant woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care and about the support obligations of the father of a child who is born alive. The cabinet shall ensure that the materials are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this section; and

(b) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two (2) week gestational increments for the first sixteen (16) weeks of her pregnancy and at four (4) week gestational increments from the seventeenth week of her pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The materials shall use language that is understandable by the average person who is not medically trained, shall be objective and nonjudgmental, and shall include only accurate scientific information about the zygote, blastocyte, embryo, or fetus at the various gestational increments. The materials shall include, for each of the two (2) of four (4) week increments specified in this paragraph, a pictorial or photographic depiction of the zygote, blastocyte, embryo, or fetus. The materials shall also include, in a conspicuous manner, a scale or other explanation that is understandable by the average person and that can be used to determine the actual size of the zygote, blastocyte, embryo, or fetus at a particular gestational increment as contrasted with the depicted size of the zygote, blastocyte, embryo, or fetus at that gestational increment.

(3) Upon submission of a request to the cabinet by any person, hospital, physician, or medical facility for one (1) or more copies of the materials published in accordance with subsection (2) of this section, the cabinet shall make the requested number of copies of the materials available to the person, hospital, physician, or medical facility that requested the copies.

(4) If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the conditions specified in subsection (1) of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency exists in the medical record of the pregnant woman.

(5) If the conditions specified in subsection (1) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

(6) The failure of a physician to satisfy the conditions of subsection (1) of this section prior to performing or inducing an abortion upon a pregnant woman may be the basis of disciplinary action pursuant to KRS 311.595.

(7) The cabinet shall charge a fee for each copy of the materials distributed in accordance with subsections (1) and (3) of this section. The fee shall be sufficient to cover the cost of the administration of the materials published in accordance with subsection (2) of this section, including the cost of preparation and distribution of materials.

➔Section 4. KRS 311.990 (Effective until July 1, 2019) is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise

violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 shall be guilty of a Class D felony.

(18) Except as provided in KRS 311.787(3), any person who intentionally violates KRS 311.787 shall be guilty of a Class D felony.

(19) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(20) Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.

(21) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.

(22) ***Except as provided in subsection (7) of Section 1 of this Act, any person who violates subsection (2) of Section 1 of this Act shall be guilty of a Class D felony.***

(23) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(24) ~~[(23)]~~ Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(25) ~~[(24)]~~ Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(26) ~~[(25)]~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

(27) ~~[(26)]~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(28) ~~[(27)]~~ (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(29) ~~[(28)]~~ Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(30) ~~[(29)]~~ Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(31) ~~[(30)]~~ Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(32) ~~[(31)]~~ Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(33) ~~[(32)]~~ Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

(34) ~~[(33)]~~ (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars ($100,000) for a first offense and not more than two hundred fifty thousand dollars ($250,000) for each subsequent offense.

(b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.

(35) ~~[(34)]~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.

➔Section 5. KRS 311.990 (Effective July 1, 2019) is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 shall be guilty of a Class D felony.

(18) Except as provided in KRS 311.787(3), any person who intentionally violates KRS 311.787 shall be guilty of a Class D felony.

(19) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(20) Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.

(21) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.

(22) ***Except as provided in subsection (7) of Section 1 of this Act, any person who violates subsection (2) of Section 1 of this Act shall be guilty of a Class D felony.***

(23) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(24) ~~[(23)]~~ Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(25) ~~[(24)]~~ Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(26) ~~[(25)]~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

(27) ~~[(26)]~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(28) ~~[(27)]~~ (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(29) ~~[(28)]~~ Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(30) ~~[(29)]~~ Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(31) ~~[(30)]~~ Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(32) ~~[(31)]~~ Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(33) ~~[(32)]~~ Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

(34) ~~[(33)]~~ (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars ($100,000) for a first offense and not more than two hundred fifty thousand dollars ($250,000) for each subsequent offense.

(b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.

(35) ~~[(34)]~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.

(36) ~~[(35)]~~ Any person convicted of violating KRS 311.728 shall be guilty of a Class D felony.

➔Section 6. KRS 213.101 is amended to read as follows:

(1) Each induced termination of pregnancy which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution within fifteen (15) days after the end of the month in which the termination occurred. If the induced termination of pregnancy was performed outside an institution, the attending physician shall prepare and file the report within fifteen (15) days after the end of the month in which the termination occurred. The report shall include all the information the physician is required to certify in writing or determine under ***Section 1 of this Act,*** KRS 311.782**,** and 311.783, but shall not include information which will identify the physician, woman, or man involved.

(2) The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.

(3) By September 30 of each year, the Vital Statistics Branch shall issue a public report that provides statistics for the previous calendar year compiled from all of the reports covering that calendar year submitted to the cabinet in accordance with this section for each of the items listed in subsection (1) of this section. Each annual report shall also provide statistics for all previous calendar years in which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The Vital Statistics Branch shall ensure that none of the information included in the report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted.

(4) (a) Any person or institution who fails to submit a report by the end of thirty (30) days following the due date set in subsection (1) of this section shall be subject to a late fee of five hundred dollars ($500) for each additional thirty (30) day period or portion of a thirty (30) day period the report is overdue.

(b) Any person or institution who fails to submit a report, or who has submitted only an incomplete report, more than one (1) year following the due date set in subsection (1) of this section, may in a civil action brought by the Vital Statistics Branch be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

(c) Failure by any physician to comply with the requirements of this section, other than filing a late report, or to submit a complete report in accordance with a court order shall subject the physician to KRS 311.595.

(5) Intentional falsification of any report required under this section is a Class A misdemeanor.

(6) Within ninety (90) days of ***the effective date of this Act***~~[January 9, 2017]~~, the Vital Statistics Branch shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in compliance with this section.

➔Section 7. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one (1) year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice, or servant;

(b) An action for injuries to persons, cattle, or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216;

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage;

(d) An action for libel or slander;

(e) An action against a physician, surgeon, dentist, or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice;

(f) A civil action, arising out of any act or omission in rendering, or failing to render, professional services for others, whether brought in tort or contract, against a real estate appraiser holding a certificate or license issued under KRS Chapter 324A;

(g) An action for the escape of a prisoner, arrested or imprisoned on civil process;

(h) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either;

(i) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession;

(j) An action for the recovery of damages or the value of stolen property, against the thief or any accessory;

(k) An action arising out of a detention facility disciplinary proceeding, whether based upon state or federal law;

(l) An action for damages arising out of a deficiency, defect, omission, error, or miscalculation in any survey or plat, whether brought in tort or contract, against a licensed professional land surveyor holding a license under KRS Chapter 322;~~[and]~~

(m) An action for violating KRS 311.782***; and***

(n) An action for violating Section 1 of this Act.

(2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.

(3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this section, the cause of action shall be deemed to accrue within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured.

(4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(6) In respect to the action referred to in paragraph (j) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

(7) In respect to the action referred to in paragraph (k) of subsection (1) of this section, the cause of action shall be deemed to accrue on the date an appeal of the disciplinary proceeding is decided by the institutional warden.

(8) In respect to the action referred to in subsection (1)(m) ***and (n)*** of this section, the cause of action shall be deemed to accrue after the performance or inducement or attempt to perform or induce the abortion.

➔Section 8. This Act may be cited as the Human Rights of the Unborn Child and Anti-Discrimination Act.

➔Section 9. The restrictions of KRS 6.945(1) shall not apply to Section 1 of this Act.

➔Section 10. Whereas the fundamental rights of all Kentuckians, regardless of the unborn child's sex, race, color, national origin, or disability, deserve immediate protection, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 19, 2019.

CHAPTER 38

(HB 135)

AN ACT relating to contracting of public works projects.

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

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

(1) "Public agency" as used in Sections 2 and 3 of this Act has the same meaning as KRS 61.870.

(2) "Public works" as used in Sections 2 and 3 of this Act means all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities," as defined in KRS 197.500, constructed under contract with any public agency.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A public agency awarding a contract for a public works project shall not in the bid specifications, project agreements, or other contract documents:

(a) Require or give preference to a bidder, offeror, or contractor in any contractor tier to enter into or adhere to an agreement with a labor organization relating to the public works contract or any other public works project; or

(b) Prohibit a bidder, offeror, or contractor in any contractor tier from entering into or adhering to an agreement with a labor organization relating to the public works project or any other public works project.

(2) A public agency shall not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that a person awarded the grant, tax abatement, or tax credit include a term described in subsection (1) of this section in a contract document for any public works project that is the subject of the grant, tax abatement, or tax credit.

(3) This section does not do any of the following:

(a) Prohibit a public agency from awarding a contract, grant, tax abatement, or tax credit to a private owner, bidder, or contractor in any contractor tier who is party to an agreement with a labor organization if being or becoming a party or adhering to an agreement with a labor organization is not a condition for award of the contract, grant, tax abatement, or tax credit;

(b) Prohibit a contractor in any contractor tier from voluntarily entering into or complying with an agreement entered into with a labor union in regard to a contract with a public agency or funded in whole or in part from a grant, tax abatement, or tax credit from a public agency;

(c) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the National Labor Relations Act, 29 U.S.C. secs. 151 et seq; or

(d) Interfere with labor relations of parties that are not regulated under the National Labor Relations Act, 29 U.S.C. secs. 151, et. seq.

(4) A public agency may exempt a particular project, contract in any contractor tier, grant, tax abatement, or tax credit from the requirements of any or all of the provisions of this section if the public agency finds, after public notice and hearing, that special circumstances require an exemption to avert an imminent threat to public health or safety. A finding of special circumstances under this subsection may not be based on the possibility or presence of a labor dispute concerning:

(a) The use of contractors at any contractor tier who are not signatories to, or otherwise do not adhere to, agreements with one (1) or more labor organizations; or

(b) Employees on the project who are not members of, or affiliated with, a labor organization.

Signed by Governor March 21, 2019.

CHAPTER 39

(HB 197)

AN ACT relating to industrial hemp.

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

➔Section 1. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869:

(1) "Commissioner" means the Commissioner of the Kentucky Department of Agriculture;

(2) "Cultivating" means planting, growing, and harvesting a plant or crop;

(3) "Department" means the Kentucky Department of Agriculture;

(4) "Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. "Handling" also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person;

(5) "Industrial hemp" ***means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis;*** ~~[has the same meaning as in 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended;]~~

(6) "Industrial hemp products" means products derived from, or made by, processing industrial hemp plants or plant parts;

(7) "Licensee" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products;

(8) "Marketing" means promoting or selling a product within the Commonwealth, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;

(9) "Processing" means converting an agricultural commodity into a marketable form;

(10) "Research pilot program" means a pilot program conducted by the department in collaboration with one (1) or more licensees or universities to study methods of cultivating, processing, or marketing industrial hemp under the authority of 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended; and

(11) "University" means an accredited institution of higher education located in the Commonwealth.

Signed by Governor March 21, 2019.

CHAPTER 40

(HB 244)

AN ACT relating to fines for traffic violations in highway work zones and making an appropriation therefor.

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

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

(1) Subject to the requirements of subsection (2) of this section, if a violation of KRS 189.290 to 189.580 or KRS 189.910 to 189.960 occurred in a highway work zone, the fine established under Section 3 of this Act, KRS 189.990, or KRS 189.993 shall be doubled.

(2) In order for a fine to be doubled under this section, the highway work zone must have:

(a) Signs displayed informing drivers of the existence of a highway work zone and that fines are doubled in it; and

(b) At least one (1) bona fide worker present.

(3) All fines collected for violations in a highway work zone under subsection (1) of this section shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

➔Section 2. KRS 189.2329 is amended to read as follows:

(1) A person shall not intentionally destroy, remove, injure, or deface a temporary traffic control device erected for the purpose of enhancing traffic safety or worker safety in a highway work zone. A temporary traffic control device shall include but not be limited to a cone, tubular marker, delineator, warning light, drum, barricade, sign, sign truck, arrow board, or other device specified in an approved traffic control plan or by an administrative regulation promulgated by the cabinet pursuant to KRS Chapter 13A.

(2) A person who violates the provisions of this section shall, upon conviction, in addition to any other penalty established by statute, be sentenced to pay ***one hundred dollars ($100)***~~[fifty dollars ($50)]~~ for each temporary traffic control device that the person destroyed, removed, injured, or defaced, and the person shall make restitution to the owner of the temporary traffic control device.

(3) Restitution payments to owners of temporary traffic control devices required to be made under subsection (2) of this section shall be paid directly to the owner of the device as specified by written order of the court. The court shall not direct that the payments be made through the circuit clerk.

➔Section 3. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over	Prima Facie or Maximum Speed												
Limit	15	20	25	30	35	40	45	50	55	60	65	70	Fine
1	16	21	26	31	36	41	46	51	56	61	66	71	$1
2	17	22	27	32	37	42	47	52	57	62	67	72	2
3	18	23	28	33	38	43	48	53	58	63	68	73	3
4	19	24	29	34	39	44	49	54	59	64	69	74	4
5	20	25	30	35	40	45	50	55	60	65	70	75	5
6	21	26	31	36	41	46	51	56	61	66	71	76	16
7	22	27	32	37	42	47	52	57	62	67	72	77	17
8	23	28	33	38	43	48	53	58	63	68	73	78	18
9	24	29	34	39	44	49	54	59	64	69	74	79	19
10	25	30	35	40	45	50	55	60	65	70	75	80	20
11	26	31	36	41	46	51	56	61	66	71	76	81	22
12	27	32	37	42	47	52	57	62	67	72	77	82	24
13	28	33	38	43	48	53	58	63	68	73	78	83	26
14	29	34	39	44	49	54	59	64	69	74	79	84	28
15	30	35	40	45	50	55	60	65	70	75	80	85	30
16	31	36	41	46	51	56	61	66	71	76	81		32
17	32	37	42	47	52	57	62	67	72	77	82		34
18	33	38	43	48	53	58	63	68	73	78	83		36
19	34	39	44	49	54	59	64	69	74	79	84		38
20	35	40	45	50	55	60	65	70	75	80	85		40
21	36	41	46	51	56	61	66	71					43
22	37	42	47	52	57	62	67	72					46
23	38	43	48	53	58	63	68	73					49
24	39	44	49	54	59	64	69	74					52
25	40	45	50	55	60	65	70	75					55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5)~~[If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.~~

~~(6) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.~~

~~(7)]~~ If the offense occurred in an area near a school where flasher lights have been installed and are flashing, and a speed limit has been set pursuant to KRS 189.336, the fine established by subsection (1) or (2) of this section shall be doubled.

➔Section 4. KRS 189.010 is amended to read as follows:

As used in this chapter:

(1) "Department" means the Department of Highways;

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes private residential roads and parking lots covered by an agreement under KRS 61.362, off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700;

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of the highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection;

(5) "Manufactured home" has the same meaning as defined in KRS 186.650;

(6) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation but equipped with frames, racks, or bodies having a load capacity of not exceeding one thousand (1,000) pounds;

(7) "Operator" means the person in actual physical control of a vehicle;

(8) "Pedestrian" means any person afoot or in a wheelchair;

(9) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other;

(10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively;

(11) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

(12) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1,000) pounds;

(13) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit;

(14) "Sharp curve" means a curve of not less than thirty (30) degrees;

(15) "State Police" includes any agency for the enforcement of the highway laws established pursuant to law;

(16) "Steep grade" means a grade exceeding seven percent (7%);

(17) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise and having a load capacity of over one thousand (1,000) pounds;

(18) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards;

(19) (a) "Vehicle" includes:

1. All agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and

2. All vehicles passing over or upon the highways.

(b) "Motor vehicle" includes all vehicles, as defined in paragraph (a) of this subsection except:

1. Road rollers;

2. Road graders;

3. Farm tractors;

4. Vehicles on which power shovels are mounted;

5. Construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways;

6. Vehicles that travel exclusively upon rails;

7. Vehicles propelled by electric power obtained from overhead wires while being operated within any municipality or where the vehicles do not travel more than five (5) miles beyond the city limits of any municipality; and

8. Vehicles propelled by muscular power;

(20) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material;

(21) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance;

(22) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing;

(23) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area;

(24) "All-terrain vehicle" means any motor vehicle used for recreational off-road use;~~[and]~~

(25) "Nondivisible load," as pertains to state highways that are not part of the national truck network established pursuant to 23 C.F.R. pt. 658, means a load or vehicle, that if separated into smaller loads or vehicles:

(a) Compromises the intended use of the vehicle, making it unable to perform the function for which it was intended;

(b) Destroys the value of the load or vehicle, making it unusable for its intended purpose; or

(c) Requires more than four (4) work hours to dismantle and reassemble using appropriate equipment***; and***

(26) "Highway work zone" means that lane or portion of a state-maintained highway open to vehicular traffic and the affected area adjacent to a lane, berm, or shoulder of a state-maintained highway upon which construction, reconstruction, resurfacing, maintenance, inspection, or other work of that nature is being conducted.

➔Section 5. KRS 189.999 is amended to read as follows:

(1) All offenses under this chapter classified as violations shall be prepayable except for:

(a) Any offense that could result in license suspension or revocation by the court or the Transportation Cabinet;

(b) Any offense relating to KRS 189.393, 189.520, or 189.580;

(c) ~~[When the defendant is speeding in a restricted zone;~~

~~(d)]~~ When the defendant is speeding more than twenty-five (25) miles per hour over the posted speed limit under KRS 189.394;

(d)~~[(e)]~~ An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;

(e)~~[(f)]~~ The offense is cited with another offense that is not prepayable;

(f)~~[(g)]~~ When the defendant is under the age of eighteen (18); or

(g)~~[(h)]~~ An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

➔Section 6. The following KRS section is repealed:

189.232 Definition of "highway work zone."

Signed by Governor March 21, 2019.

CHAPTER 41

(HB 257)

AN ACT relating to amusement rides and attractions.

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

➔SECTION 1. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

(1) All patrons of amusement rides or attractions shall:

(a) Obey all signage posted in conspicuous locations, including but not limited to warning signs, instruction signs, and directional signs pertaining to the amusement rides or attractions;

(b) Obey all verbal instructions from amusement ride or attraction operators; and

(c) Maintain all safety devices, including but not limited to seat belts, restraint bars, and harnesses in accordance with all instructions from operators and posted signage.

(2) All patrons of amusement rides or attractions shall refrain from:

(a) Engaging in any activity that may cause bodily harm or death;

(b) Interfering in any manner with the normal operation of the amusement ride or attraction;

(c) Disconnecting or disabling any safety device at any time unless at the express instruction of the operator;

(d) Extending arms or legs beyond the seating area unless at the express instruction of the operator;

(e) Throwing, dropping, or otherwise expelling any object from any amusement ride or attraction;

(f) Embarking on or disembarking from any amusement ride or attraction except at the designated time and area or at the direction of the operator;

(g) Unreasonably controlling the speed or direction of any amusement ride or attraction that requires a passenger to control or direct any part of the amusement ride or attraction; or

(h) Boarding or attempting to board any amusement ride or attraction if he or she is under the influence of alcohol or any controlled substance as defined in KRS 218A.010.

(3) Any person who violates the provisions of this section shall, upon request of the owner of the amusement ride or attraction, leave the premises on which the amusement ride or attraction is located without a refund of any admission charges or entrance fees.

(4) Any person who violates subsections (1) or (2) of this section and does not comply with a request to leave under subsection (3) of this section shall be guilty of criminal trespass in the second degree.

(5) Subsections (1) to (4) of this section shall not apply to any individual who, due to the following conditions, is not capable of understanding the posted rules or oral instructions:

(a) Blind or visually impaired as defined in KRS 61.980;

(b) Deaf or hard of hearing as defined in KRS 61.980; or

(c) Developmental disability as defined in KRS 387.510.

(6) Any owner of an amusement ride or attraction shall conspicuously display the penalties for violations of this section near each amusement ride or attraction.

Signed by Governor March 21, 2019.

CHAPTER 42

(HB 311)

AN ACT relating to cultured animal tissue.

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

➔Section 1. KRS 217.035 is amended to read as follows:

A food shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular or its labeling or packaging fails to conform with the requirements of KRS 217.037;

(2) If it is offered for sale under the name of another food;

(3) If it is an imitation of another food for which a definition and standard of identity has been prescribed by regulations as provided by KRS 217.135; or if it is an imitation of another food that is not subject to subsection (7) of this section, unless its label bears in type of uniform size and prominence, the word, imitation, and, immediately thereafter, the name of the food imitated;

(4) If its container is so made, formed, or filled as to be misleading;

(5) If in package form, unless it bears a label containing:

(a) The name and place of business of the manufacturer, packer, or distributor;

(b) An accurate statement of the net quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided that reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the secretary;

(6) If any word, statement, or other information required by or under authority of KRS 217.005 to 217.215 to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by KRS 217.135 unless:

(a) It conforms to such definition and standard; and

(b) Its label bears the name of the food specified in the definition and standard, and insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(8) If it purports to be or is represented as:

(a) A food for which a standard of quality has been prescribed by regulations as provided by KRS 217.135 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(b) A food for which a standard or standards of fill of container have been prescribed by regulation as provided by KRS 217.135 and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(9) If it is not subject to the provisions of subsection (7) of this section, unless it bears labeling clearly giving:

(a) The common or usual name of the food, if any there be; and

(b) In case it is fabricated from two (2) or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided that, to the extent that compliance with this subsection is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the secretary;

(10) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the secretary determines to be, and by regulations prescribes as, necessary in order to fully inform purchasers as to its value for such uses;

(11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that to the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by regulations promulgated by the secretary;

(12) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;

(13) If it is a raw agricultural commodity which is the produce of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical; provided, however, that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade;

(14) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act***; or***

(15) If it purports to be or is represented as meat or a meat product and it contains any cultured animal tissue produced from in vitro animal cell cultures outside of the organism from which it is derived.

Signed by Governor March 21, 2019.

CHAPTER 43

(HB 316)

AN ACT relating to service member relief.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person who enters military service or a member of the Armed Forces of the United States, Reserves, or National Guard, after receiving official orders to relocate for a period of service of no less than ninety (90) days, may terminate or suspend, without penalty or fee, any of the following contracts for services:

(a) Internet;

(b) Television and cable;

(c) Athletic club or gym memberships; and

(d) Satellite radio.

(2) Termination or suspension of a contract under this section shall be made by delivery of a written or electronic notice to the specified service provider with a copy of the service member's official military orders.

(3) A termination or suspension under this section shall be effective on the day notice is given under subsection (2) of this section.

(4) A service member who terminates or suspends a contract for services under the provisions of this section may reinstate the provisions of services upon providing written or electronic notice to the service provider that he or she is no longer on active military service.

(5) Nothing in this section shall be construed to conflict with the provisions of the federal Servicemembers Civil Relief Act, 50 U.S.C. secs. 3901 et seq.

(6) Nothing in this section shall be construed to excuse or limit the liability of the service member of an outstanding balance due to the service provider.

(7) The provisions of this section shall only apply to contracts entered into on and after the effective date of this Act.

Signed by Governor March 21, 2019.

CHAPTER 44

(HB 339)

AN ACT relating to cities.

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

➔Section 1. KRS 24A.140 is amended to read as follows:

(1) When sessions of District Court are held in:

(a) The county courthouse or other county-owned facility;

(b) Urban-county facilities;

(c) State-owned, leased, or controlled facilities;

(d) Special district facilities; or

(e) Private facilities;

the sheriff shall be responsible for attending court, keeping order, and providing the same services to District Court as are provided to the Circuit Court.

(2) The sheriff shall be compensated for these services in the same manner and at the same rates as for similar services rendered to the Circuit Court.

(3) When sessions of District Court are held in city facilities the city police~~[or city marshal, as appropriate,]~~ shall be responsible for attending court, keeping order, and providing the same services to District Court as are provided by the sheriff to Circuit Court. Compensation for these services shall be the same as allowed to the sheriff as provided in subsection (2) of this section.

(4) If the Administrative Office of the Courts determines that the provision of services by any law enforcement officer or agency named herein would place an undue burden on such officer or agency the Administrative Office of the Courts may arrange with any other law enforcement officer or agency in the Commonwealth to provide such services. Compensation shall be as provided in subsection (2) of this section.

➔Section 2. KRS 29A.180 is amended to read as follows:

(1) The sheriff ***or***~~[,]~~ city police, ~~[or city marshal,]~~as appropriate, shall be responsible for meals, housing, and other incidental needs of grand jurors and petit jurors in Circuit Court and in District Court when the jurors are kept overnight or otherwise sequestered when ordered to do so by the judge of the court for which the jurors were summoned. The expenses for these services shall be borne by the Finance and Administration Cabinet and the officer shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A.

(2) The sheriff ***or***~~[,]~~ city police, ~~[or city marshal,]~~as appropriate, shall be responsible for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to KRS 29A.310. In criminal cases the expenses for these services shall be borne by the Finance and Administration Cabinet, and the sheriff shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A. Excepting views conducted under the Eminent Domain Act of Kentucky, in civil cases these expenses shall be paid by the party requesting the viewing.

(3) The sheriff ***or***~~[,]~~ city police, ~~[or city marshal,]~~as appropriate, shall be responsible for providing any specialized security personnel, equipment, and services which the judge, with the consent of the Chief Justice, shall deem necessary for the conduct of a trial in which the judge believes that special security precautions are necessary or desirable. The expenses for these services shall be borne by the Finance and Administration Cabinet, and the officer shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A. In such cases, the judge may also request the Chief Justice to provide the services of the Department of Kentucky State Police to ensure proper security precautions relating to the case.

➔Section 3. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

(1) "Commission" means a commission issued to an individual by the secretary of justice and public safety, entitling the individual to perform special law enforcement duties on public property;

(2) "Council" means the Kentucky Law Enforcement Council;

(3) "Cabinet" means the Justice and Public Safety Cabinet;

(4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;

(5) "Secretary" means the secretary of the Justice and Public Safety Cabinet;

(6) "Special law enforcement officer":

(a) Means one whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;

(b) Means one whose duties include the prevention, observation, or detection of, or apprehension for, any unlawful activity on specific public property;

(c) Means one whose special duties include the control of the operation, speed, and parking of motor vehicles, bicycles, and other vehicles, and the movement of pedestrian traffic on specific public property;

(d) Means one whose duties include the answering of any intrusion alarm on specific public property;

(e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and

(f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:

1. Sheriffs, sworn deputy sheriffs, ~~[city marshals,]~~constables, sworn deputy constables, and coroners;

2. Auxiliary and reserve police appointed under KRS 95.160 or 95.445, or citation and safety officers authorized by KRS 83A.087 and 83A.088;

3. State park rangers and officers of the Division of Law Enforcement within the Department of Fish and Wildlife Resources;

4. Officers of the Transportation Cabinet responsible for law enforcement;

5. Officers of the Department of Corrections responsible for law enforcement;

6. Fire marshals and deputy fire marshals;

7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;

8. Federal peace officers;

9. Those campus security officers who are commissioned under KRS 164.950;

10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and

11. Railroad policemen covered by KRS 277.270 and 277.280; and

(7) "Sworn public peace officer" means one who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch, or service of either, or of any municipality.

➔Section 4. KRS 65.710 is amended to read as follows:

In order to enable cities and counties to fulfill their obligations regarding the public health, safety, and welfare, the General Assembly does hereby allow cities and counties to contract with private persons, partnerships, or corporations for providing ambulance service to the residents of such cities and counties subject to the following conditions:

(1) These contracts must be in writing and must be approved by the ***legislative body of the*** city ~~[council or board of aldermen]~~if a city is party thereto, or by the fiscal court in case a county is party thereto.

(2) No contract shall be made with an ambulance service or other organization or person unless the contract shall stipulate that at least one (1) person on each ambulance run shall possess currently valid emergency medical technician certification.

(3) All contracts made with any ambulance service or other organization or person shall stipulate that all vehicles used for operation of the service comply with vehicle and equipment administrative regulations issued by the Cabinet for Health and Family Services.

(4) All contracts shall include the stipulation that at least two (2) trained persons, one (1) driver and one (1) attendant, shall be carried on each ambulance for each ambulance call which is covered by the contract.

(5) No contract shall be made for a period of time greater than one (1) year.

(6) The vehicle, equipment, training, and personnel requirements of subsections (2), (3), and (4) of this section shall also apply to the operation of an ambulance service by a city or a county or by a city and a county jointly.

(7) No provisions of this section shall be construed as to limit the power of any city or county to contract for or operate ambulance services under requirements which are stricter than those of this section, or to require insurance, or bonding of contractors, provided these provisions are not in conflict with the requirements of this section.

➔Section 5. KRS 65.805 is amended to read as follows:

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

➔Section 6. KRS 67.750 is amended to read as follows:

As used in KRS 67.750 to 67.790, unless the context requires otherwise:

(1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

(3) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(4) "Employee" means any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee;

(5) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following:

(a) Sales and excise taxes paid; and

(b) Returns and allowances;

(7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2008, as amended;

(8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution or the Constitution and statutory laws of the United States;

(9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;

(10) "Tax district" means a city, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes;

(11) "Taxable gross receipts," in case of a business entity having payroll or sales revenues both within and without a tax district, means gross receipts as defined in subsection (6) of this section, as apportioned under KRS 67.753;

(12) "Taxable gross receipts," in case of a business entity having payroll or sales revenue only in one (1) tax district, means gross receipts as defined in subsection (6) of this section;

(13) "Taxable net profit," in case of a business entity having payroll or sales revenue only in one (1) tax district, means net profit as defined in subsection (8) of this section;

(14) "Taxable net profit," in case of a business entity having payroll or sales revenue both within and without a tax district, means net profit as defined in subsection (8) of this section, as apportioned under KRS 67.753; ***and***

(15) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed~~[; and~~

~~(16) "City" means a city with a population equal to or greater than one thousand (1,000) based on the most recent federal decennial census and any city with a population of less than one thousand (1,000) based on the most recent federal decennial census that, prior to January 1, 2014, imposed a license fee at a percentage rate on salaries, wages, commission, or other compensation for work done or services performed within the city or on the net profits or gross receipts of businesses, professions, or occupations from activities conducted within the city]~~.

➔Section 7. KRS 67.850 is amended to read as follows:

(1) Charter county governments may exercise the constitutional and statutory rights, powers, privileges, immunities, and responsibilities of counties and cities of the ***home rule***~~[highest]~~ class within the county:

(a) In effect on the date the charter county government becomes effective;

(b) That may subsequently be authorized for or imposed upon counties and cities of that class; and

(c) That may be authorized for or imposed upon charter counties.

(2) Rights, powers, privileges and immunities exercised by charter county governments pursuant to subsection (1)(a) and (b) of this section shall continue to be authorized for charter county governments notwithstanding repeal or amendment of the statutes upon which they are based unless expressly repealed or amended for charter county governments.

➔Section 8. KRS 67.922 is amended to read as follows:

(1) A unified local government may exercise the constitutional and statutory rights, powers, privileges, immunities, and responsibilities of counties and of cities of the ***first class or home rule*** ~~[highest]~~ class within the unified local government:

(a) In effect on the date the unified local government becomes effective;

(b) Which may subsequently be authorized for or imposed upon counties and cities of that class; and

(c) Which may be authorized for or imposed upon unified local governments.

(2) ***If a city of the first class exists within the county on the date that the unified local government becomes effective and that city is part of the unified local government, the unified local government may also exercise the constitutional and statutory rights, powers, privileges, immunities, and responsibilities of a city***

of the first class in addition to its authority to exercise the rights, powers, privileges, immunities, and responsibilities granted under subsection (1) of this section.

(3) A unified local government shall be accorded the same sovereign immunity granted counties, their agencies, officers, and employees.

(4) ~~[(3)]~~ All ordinances of a unified local government shall be enacted and enforced pursuant to KRS 83A.060 and 83A.065.

➔Section 9. KRS 80.010 is amended to read as follows:

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

(1) "Housing" means a building or buildings containing rooms to be provided as living quarters, together with shops, stores, garages, laundries, doctors' and dentists' offices, and other facilities and appurtenances deemed reasonably necessary by the housing authority to the successful and economical operation of the project. It also means any work or undertaking of a housing authority or of the federal government to:

(a) Demolish, clear, or remove a building or buildings from any slum area, including the adaptation of such area to recreational, community, or other public purposes;

(b) Provide decent, safe, and sanitary living accommodations for persons who lack the amount of income that is necessary, as determined by the authority undertaking the project, to enable them, without financial assistance, to obtain such accommodations; such work or undertaking may include buildings, land equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare, or other purposes;

(c) Accomplish a combination of the foregoing and any purposes and objectives permitted of public housing authorities authorized by the United States Housing Act of 1937, 42 U.S.C., sec. 1401, as amended from time to time.

(2) "Housing authority" or "authority" means any housing authority created pursuant to this chapter.

(3) "Public body" means any city, ~~[village,]~~county, commission, district, authority, or other public body or political subdivision of the Commonwealth.

(4) "Federal government" includes the United States of America, the United States housing authority and its successor agencies, and any other agency or instrumentality of the United States of America.

(5) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations.

(6) "Clerk" means the clerk of the city or the clerk of the county, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(7) "Governing body" means, in the case of a city, the city council, the commission, ***board of commissioners, board of alderman,*** ~~[the board of trustees]~~ or other legislative body of the city, and in the case of a county, the fiscal court.

(8) "Mayor" means the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of the city.

(9) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(10) "Persons of low income" means persons or families who lack the amount of income which is necessary, as determined by the housing authority undertaking the housing development, to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

(11) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(12) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light, or sanitary facilities, or any combination of these factors are detrimental to safety, health and morals.

(13) "Low income" and "moderate income" shall have those meanings as from time to time are promulgated by federal and state governmental agencies providing funding for the then applicable housing program.

➔Section 10. KRS 81.005 is amended to read as follows:

(1) Cities shall be organized into two (2) classes based on the form of their respective government. The two (2) classes of cities shall be:

(a) First class, which shall include cities organized and operating under the mayor-alderman plan of government in accordance with KRS Chapter 83; and

(b) Home rule class, which shall include any city government organized and operating under the following ***forms*** ~~[classes]~~ of government:

1. City manager plan of government in accordance with KRS 83A.150;

2. Mayor-council plan of government in accordance with KRS 83A.130; or

3. Commission plan of government in accordance with KRS 83A.140.

(2) Cities incorporated before January 1, 2015, shall be classified in accordance with the classes set out in subsection (1) of this section on January 1, 2015.

(3) When a city is incorporated on or after January 1, 2015, that city's initial classification shall be the form of government designated by the court upon incorporation in accordance with KRS 81.060.

(4) A city shall be deemed to be reclassified to the class designated under subsection (2) of this section upon the effective date of a change in the form of government pursuant to KRS 83A.160.

(5) When a city changes class, it shall thereafter be governed by the laws relating to the class to which it is assigned, but the change from one (1) class to another shall not affect any ordinance previously enacted by the city, except that any ordinance in conflict with the laws relating to cities of the class to which the city is assigned shall be repealed to the extent the ordinance so conflicts.

(6) A city that is reclassified shall provide the Secretary of State written notice of the reclassification, including the effective date of the reclassification no later than thirty (30) days after the effective date of the reclassification pursuant to KRS 83A.160.

(7) In order to update the record of incorporation of cities in the Secretary of State's office, every city operating as a public corporation and a unit of local government shall file with the Secretary of State before January 1, 2015, a document listing the name of the city, the year of its incorporation, form of government, and the classification assigned the city by this section. If a city fails to comply with this subsection, it shall be barred from receiving state moneys until such time as the city complies.

➔Section 11. KRS 82.082 is amended to read as follows:

(1) A city may exercise any power and perform any function within its boundaries, including the power of eminent domain in accordance with the provisions of the Eminent Domain Act of Kentucky, that is in furtherance of a public purpose of the city and not in conflict with a constitutional provision or statute.

(2) A power or function is in conflict with a statute if it is expressly prohibited by a statute or there is a comprehensive scheme of legislation on the same general subject embodied in the Kentucky Revised Statutes~~[including, but not limited to, the provisions of KRS Chapters 95 and 96]~~.

➔Section 12. KRS 92.281 is amended to read as follows:

(1) Cities of all classes are authorized to levy and collect any and all taxes provided for in Section 181 of the Constitution of the Commonwealth of Kentucky, and to use the revenue therefrom for such purposes as may be provided by the legislative body of the city.

(2) Nothing in this section shall be construed to repeal, amend, or affect in any way the provisions of KRS 243.070.

(3) This section shall not in any wise repeal, amend, affect, or apply to any existing statute exempting property from local taxation or fixing a special rate on proper classification or imposing a state tax which is declared to

be in lieu of all local taxation, nor shall it be construed to authorize a city to require any company that pays both an ad valorem tax and a franchise tax to pay a license tax.

(4) This section shall also be subject to the provisions of KRS 91.200 in cities of the first class having a sinking fund and commissioners of a sinking fund.

(5) ~~[(a) License fees on businesses, trades, occupations, or professions may not be imposed by a city with a population of less than one thousand (1,000) based upon the most recent federal decennial census at a percentage rate on salaries, wages, commissions, or other compensation earned by persons for work done or services performed within that city nor the net profits of businesses, professions, or occupations from activities conducted in that city.~~

~~(b) Notwithstanding paragraph (a) of this subsection, a city with a population of less than one thousand (1,000) based upon the most recent federal decennial census that, prior to January 1, 2014, imposed a license fee at a percentage rate on salaries, wages, commissions, or other compensation for work done or services performed within the city or on the net profits or gross receipts of businesses, professions, and occupations from activities conducted within the city may continue to impose that fee on a percentage rate.~~

~~(6) ~~]License fees or occupational taxes may not be imposed against or collected on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(6) ~~[(7)]~~ License fees or occupational taxes may not be imposed against or collected on any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.

(7) ~~[(8)]~~ (a) It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.

(b) To further this intent, license fees or occupational taxes may not be imposed against any company providing multichannel video programming services or communications services as defined in KRS 136.602. If only a portion of an entity's business is providing multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services.

➔Section 13. KRS 95.761 is amended to read as follows:

(1) Any city with a population equal to or greater than one thousand (1,000) but less than eight thousand (8,000) based upon the most recent federal decennial census which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments. If a city elects to establish a civil service system for its police and fire employees under this section, then it may adopt either the provisions of this section, or KRS 95.762 ***to***~~[, 95.763, 95.764, 95.765, and]~~ 95.766, or it may adopt the provisions of KRS 90.300 to 90.420. A city meeting the population criteria of this subsection may adopt the provisions of KRS 90.300 to 90.420 for municipal employees who are not police or fire personnel.

(2) Any city ***meeting the criteria of subsection (6) of this section*** may provide a retirement system for any of its employees, including police and firefighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and firefighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system, except that if there are fewer than six (6) active and retired members of the fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other department. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their

beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(3) A city meeting the criteria of subsection (6) of this section may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employees, or either KRS 95.520 to 95.620 or KRS 95.767 to 95.784 for its police and firefighters. After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employee covered thereby.

(4) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of firefighters and assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(5) After August 1, 1988, no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852, or by adopting a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. Any city which adopted a pension system pursuant to this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(6) As used in subsections (2) and (3) of this section, "city" means only those cities that were previously classified as cities of the fourth and fifth class under the classification system that was in effect before August 1, 1988.

(7) Notwithstanding subsection (1) of this section, no city shall adopt ***any***~~[a]~~ civil service system for any of its employees ~~[under KRS 90.300 to 90.420 or under KRS 95.761, 95.762, 95.763, 95.764, 95.765, and 95.766]~~during the months of November or December in any even-numbered year.

(8) Any city that creates a civil service commission pursuant to this section may repeal or amend the ordinance at the discretion of the city legislative body. The city legislative body shall not repeal any provisions of the ordinance governing the maintenance of a pension fund.

➔Section 14. KRS 96.045 is amended to read as follows:

(1) No municipality, in which there is located an existing electric, water or gas public utility plant or facility shall construct or cause to be constructed any similar utility plant or any similar public utility facility duplicating such existing plant or facility or to obtain or acquire any similar public utility plant or facility other than by the purchase of the existing plant or facility or by the acquisition of such existing plant or facility by the exercise of the power of eminent domain.

(2) "Municipality" means any county, city, ***and***~~[town, village and]~~ municipal corporation ~~[of any and every class]~~in the Commonwealth of Kentucky, and any board, commission or agency thereof.

(3) All laws and parts of laws in conflict herewith to the extent of such conflict are repealed.

➔Section 15. KRS 96.120 is amended to read as follows:

(1) Any city ***that owns and operates its own water or light plant*** may acquire a franchise to furnish water and light to any other city, in the same manner that any private corporation or individual may acquire such a franchise.

(2) Any city that owns and operates its own water or light plant may contract with any other city to furnish water and light to that other city. Those contracts may be entered into by the legislative bodies of the cities, and the legislative bodies are given full power to so contract in regard to the furnishing of water or light. Each contract shall be specific in its terms. Any city may pay to any other city a rental for water and light from year to year, or for a term of years.

(3) Any city may construct, lay, or maintain mains, pipes, lines, or other necessary apparatus to convey water or light from any city that owns and operates its own water or light plant, or may contract with the other city to do these things, and the other city shall have the same power. For this purpose, any city may acquire rights and rights-of-way in the same manner that private corporations or individuals may acquire rights

and rights-of-way, and may do any other things in carrying into effect the provisions of this section that any individual or corporation may do.

➔Section 16. KRS 96.189 is amended to read as follows:

(1) Any city ~~[with a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census]~~may, pursuant to an ordinance so providing, acquire any streetcar system existing in the city, with all its appliances, or may establish and install a streetcar system, and may operate within and not more than ten (10) air miles beyond the corporate limits of the city, improve and extend a system so acquired or installed upon the terms and conditions as may be provided by ordinance and by the terms of the contract by which the system is acquired or installed. Any city ~~[meeting the population requirements of this section]~~may acquire, establish, and install a street omnibus or taxicab system, and operate it upon the terms and conditions as are prescribed by ordinance.

(2) To provide for the financing of the streetcar system or street omnibus or taxicab line, the city may issue bonds at not less than par and accrued interest, to bear interest at a rate or rates or method of determining rates as the city determines, payable at least annually, and to mature at any time not exceeding twenty (20) years after their date, and may provide for a sinking fund to meet the bonds at their maturity. No bonds shall be issued except in compliance with the general law in reference to the amount of indebtedness that may be incurred by the city, nor until after a vote is taken as required by law to authorize the incurring of indebtedness.

➔Section 17. KRS 96.200 is amended to read as follows:

Except as otherwise provided in KRS ~~[96.330 or]~~96.550 to 96.900, ~~[or,]~~the legislative body of any city may, by ordinance, provide in what manner and for what purpose any profits, earnings or surplus funds arising from the operation of any public utility owned or operated by the city may be used and expended. The ordinance may be amended or repealed from time to time. Until such an ordinance is enacted any surplus earnings shall be paid into the city treasury, to be expended for the general purposes of government in the city.

➔Section 18. KRS 107.020 is amended to read as follows:

(1) The term "governing body," as used in this chapter, means and includes the legislative body of any city, whether the same be designated by applicable statutes as a general council, a common council, a city council, a board of commissioners, or otherwise. The term "governing body," as used in KRS 107.010 to 107.220 shall include the legislative body of any county unless the context requires otherwise. The terms "municipality" and "city" as used in KRS 107.010 to 107.220 shall include county within their meaning unless the context requires otherwise.

(2) The term "ordinance" means and includes any ordinance enacted in accordance with the general laws applicable to ordinances of the class of city in question, and the form of government thereof, and in accordance with the provisions of this chapter.

(3) The term "public way" means and includes streets, boulevards, avenues, roads, lanes, alleys, parkways, courts, terraces, and other courses of travel open to the general public by whatsoever name designated.

(4) The terms "improvement" and "project" mean and include:

(a) The construction of public ways or the substantial reconstruction or widening thereof;

(b) The construction, installation, or substantial reconstruction of sanitary, storm, or combined sewers and appurtenances;

(c) The construction, enlargement or substantial reconstruction of sewage treatment plants for rendering sewage less hazardous to public health, safety, and general welfare;

(d) The construction, installation, or substantial replacement of fire hydrants ***and***~~[in cities with populations of less than twenty thousand (20,000) based upon the most recent federal decennial census,]~~ necessary water mains and appurtenances ***in any city***~~[in a city in a county containing a city of the first class or a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census]~~; or

(e) Any combination of the same. Bonds for improvements defined in paragraphs (b), (c) and (d) of this subsection may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue.

(5) The term "costs" as applied to any project undertaken under this chapter includes the cost of labor, materials, and equipment necessary to complete the project in a satisfactory manner, cost of land acquired, and every

expense connected with the project, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the governing body), a reasonable allowance for unforeseen contingencies, the printing of bonds, and other costs of financing which may include the payment of a fee to a fiscal agent for advice and assistance in the preparation and marketing of the bonds. As applied to wastewater collection projects undertaken by metropolitan sewer districts "costs" also include:

(a) The cost of inspections of work as construction progresses;

(b) Interest which will accrue on the bonds until the due date of the first annual improvement assessment if a lump sum is not paid;

(c) Capitalized interest on the bonds for a period not to exceed three (3) years;

(d) All or any portion of the debt service reserve requirement, if determination is made to finance same from bond proceeds;

(e) Payment of attorneys' fees, underwriting and fiscal agency fees, trustees' fees, rating service fees if approved by the fiscal court; and

(f) Other costs of issuance of bonds.

(6) The term "assessed value basis" means the plan for the levying of annual improvement benefit assessments on the basis of the assessed values of the benefited properties, as authorized by this chapter. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "assessed value basis" means the plan for the levying of annual improvement benefit assessments upon benefited property for the benefits conferred by the construction of projects on the basis of the ad valorem assessed values (land only) of the benefited property, whether the owners pay such levies in full or on an annual basis to amortize bonds. Identical annual improvement benefit assessments upon classified zones of benefited property may also be included in this plan where determination is made by order of a metropolitan sewer district, as provided in KRS 107.030, that benefits conferred by construction of a project are substantially equal and that the assessed value (land only) of all benefited property or designated zones thereof shall therefore be deemed equal in respect of a given wastewater collection project.

(7) The term "front-foot basis" refers to the plan for financing improvements by apportioning the cost among benefited properties upon the basis of the number of linear feet thereof abutting upon the improvement project, as otherwise provided by law.

(8) The terms "property to be benefited," "properties to be benefited," "benefited property" and "benefited properties" all mean and refer to the property or properties defined in KRS 107.140. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "benefited property" and "property to be benefited" mean the property (land only) proposed to be benefited by construction of a wastewater collection project instituted by a metropolitan sewer district and against which lump-sum or annual improvement benefit assessments are to be levied.

(9) "Construction" means the following services and facilities provided by a metropolitan sewer district:

(a) Preliminary planning to determine the economic and engineering feasibility of construction of wastewater collection projects, and any engineering, architectural, legal, fiscal, and economic investigations and studies necessary. Also included are all necessary surveys, designs, plans, working drawings, specifications, procedures, and other required actions incident to the construction of wastewater collection projects;

(b) The building, acquisition, installation, erection, alteration, remodeling, improvement, expansion, or extension of wastewater collection projects and any other physical devices reasonably associated with such projects;

(c) The provision of sewer collection services and facilities to benefited property although not directly financed by the issuance of bonds; and

(d) Inspection and supervision incident to the acquisition, construction, and installation of wastewater collection projects.

(10) "Debt service reserve requirement" means with respect to any particular issue of bonds for a wastewater collection project of a metropolitan sewer district, the maximum annual requirements for payment of principal of and interest on such bond issue funded either in whole or in part by application of bond proceeds or accrued by the levying of improvement benefit assessments as provided in KRS Chapters 76 and 107.

(11) "Metropolitan sewer district" means a joint metropolitan sewer district which has been duly created under KRS 76.005 to 76.210.

(12) "Order" means a formal and binding enactment of the board of a metropolitan sewer district entered in connection with the financing by such district of a wastewater collection project.

(13) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants.

(14) "Wastewater collection project" means treatment plants and all or part of any facilities and systems of a metropolitan sewer district used in the collection, holding, or transmission of wastewater from a benefited property to wastewater treatment plants or other similar facilities for final disposition. These terms shall include, without being limited to, sanitary sewage collection lines, intercepting sewers, outfall sewers, sewer laterals, power stations and pumping stations, and other equipment and their appurtenances necessary to enable the project to fulfill its function, including land acquisition, if required, whether such project facilities are provided by funds derived from issuance of bonds or otherwise provided by a district in any manner.

(15) "Classified zone" means any portion of any construction phase of a wastewater collection project designated by a metropolitan sewer district after a determination that all property located in such zone is benefited substantially equal by such construction.

➔Section 19. KRS 107.030 is amended to read as follows:

If a municipality desires to authorize, construct, and finance an improvement pursuant to this chapter, its governing body shall initiate the proceedings by adopting an ordinance, herein called the "First Ordinance," in which announcement shall be made of the public way or ways (which need not be contiguous) proposed to be improved and the geographical limits of the proposed improvement in such manner as to identify the benefited properties or the identity of the property or properties to be benefited by the fire hydrant in ***a city***~~[cities with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census]~~ or by the sewer installations (which may include a sewage treatment plant) which properties may be identified by naming the public way or ways upon which they abut, if any, or by geographical location, or both. In either case the ordinance shall recite the nature and scope of the improvement, a preliminary estimate of the costs thereof, as submitted in writing by an engineer, or firm of engineers, holding a license from the Commonwealth of Kentucky, and the amount, if any, which the city proposes to appropriate from available city funds toward the estimated cost. Any metropolitan sewer district desiring to initiate a wastewater collection project pursuant to this chapter shall, by order of its board cause a written preliminary engineering and financing report to be prepared by one (1) or more engineers, or one (1) or more firms of engineers, licensed to do business in the Commonwealth of Kentucky, or alternatively, by district personnel, for submission to the district. The preliminary engineering and financing report shall designate a geographical area in which a wastewater collection project is recommended for construction. The report shall contain a reasonable description of the project facilities proposed to be constructed, a statement as to benefits to be conferred by the proposed project, the distribution of the benefits and an estimate of the cost of the proposed project. The board of the district shall receive the preliminary engineering and financing report at a regular meeting. The board shall study and evaluate it, and by duly entered order either approve, disapprove the report as submitted, or amend and approve the report. Following approval of the preliminary engineering and financing report by the board of the metropolitan sewer district, the board shall formally initiate proceedings for the construction and financing of the proposed wastewater collection project. This announcement shall identify all benefited properties by naming the public way upon which such benefited properties abut, if any, or by geographical location, or by other appropriate description. The first ordinance shall describe the nature, scope and preliminary cost estimate of the wastewater collection project being proposed. The ordinance shall determine that each parcel of land identified as benefited property shall be afforded benefits by the projects unless specifically excluded. A public hearing shall be held in respect of the proposed wastewater collection project. In all succeeding proceedings, the city shall be bound and limited by the preliminary report of the engineer, or engineers, with regard to the nature, scope, and extent of the proposed improvement project (unless the first ordinance be amended, as hereinafter provided); but shall not be bound by, or limited to, the preliminary estimate of costs. The costs shall be determined upon the basis of construction bids publicly solicited as hereinafter provided, and shall be binding upon the city, and upon the owners of property to be benefited by the proposed improvement project, whether the same turn out to be equal to, below, or above such preliminary estimate. Architects, attorneys, consultants, engineers, and fiscal agents shall be employed after reasonable advertisement of the need for their services and with such competition as is permitted by law. In a first ordinance for a wastewater

collection project, the board of a metropolitan sewer district shall make findings of fact regarding the degree and nature of the benefit which will accrue to benefited properties by the installation of the project. If the board determines as a fact that groups of or all of the benefited properties will be affected and benefited in substantially the same manner and to substantially the same degree, the board may classify such benefited properties into one (1) or more assessment zones based upon the similarity of benefits to be derived. In such case, the board may deem all benefited properties within a particular assessment zone to be equally benefited and therefore equally treated for purposes of levying improvement benefit assessments for amortization of bonds issued to provide funds to pay the costs of the project. It is the intent of KRS Chapters 76 and 107 to vest in the board of any metropolitan sewer district undertaking a project authority to make findings of fact in order to classify properties according to benefits conferred from the construction of projects. The board may, by appropriate order, determine that identified groups of benefited properties will be benefited in substantially the same manner by a project and these properties shall be treated equally for purposes of annual improvement benefit assessment of such benefited properties. The board may rely upon any pertinent data in making such findings of fact, including the size and diameter of sanitary sewer service connections to be made available. If the board of the district determines that all properties situated within a particularly described geographic area will not receive substantially equal benefits from the project, the board shall determine in the first ordinance that such properties shall be annually assessed for benefits conferred based upon the relative assessed land valuation of each benefited property as it relates to the aggregated assessed land valuation of all benefited properties within such particularly described geographic area. Whichever basis of assessment is selected, it shall be used both initially, when land owners may pay improvement benefit assessments in a lump sum, and subsequently during each annual period in which project bonds are outstanding if a lump-sum payment is not paid. The first ordinance shall provide for a public hearing at a time and place specified therein (not less than one (1) week after publication) and shall give notice that at the hearing any owner of property to be benefited may appear and be heard as to:

(1) Whether the proposed project should be undertaken or abandoned;

(2) Whether the nature and scope of the project shall be altered;

(3) Whether the project shall be financed through the issuance of bonds according to the "assessed value basis," authorized by this chapter; or

(4) Whether the project shall be financed through assessments made and apportioned on a front-foot basis, as may otherwise be authorized by law. The first ordinance shall be published pursuant to KRS Chapter 424. The first ordinance may designate a person, who may be the mayor, a member of the governing body, or any city official, to preside at and conduct such public hearing. In the absence of a designation in the ordinance, the mayor or a person designated by the mayor shall preside. Notwithstanding the foregoing, the public hearing shall not be deemed irregular or improper if it is in fact presided over and conducted at the designated time and place by any elected city officer or member of the governing body.

➔Section 20. KRS 107.140 is amended to read as follows:

(1) (a) In the case of improvements of public ways, the benefited property shall consist of all real property abutting upon both sides of the improvement project, and the cost of improving intersections shall be included in the total costs to be assessed and apportioned, unless and to the extent the city shall appropriate, within constitutional limitations, from available funds, a definite and specified sum as a contribution thereto, or a portion of the aggregate cost, or the cost of specified portions of the improvement; provided, however, that if provisions shall be made for sidewalk improvements, as an integral part of the improvement of a "public way," as defined in subsection (3) of KRS 107.020, upon only one side of the project, the costs of the sidewalk improvement shall be ascertained and assessed separately against the property abutting upon that side only, but the governing body may provide that such assessment shall include a fair share of the over-all costs as herein defined, other than the amounts of the actual construction contracts.

(b) In the case of improvements for draining sewage, storm water, or a combination thereof, the benefited properties shall consist of all properties which are thereby afforded a means of drainage, including not only the properties which may be contiguous to the improvements, but also adjacent properties within a reasonable distance therefrom as the governing body may in the proceedings set forth.

(c) In the case of an improvement project consisting in whole or in part of a sewage treatment plant, or enlargement or substantial reconstruction of an existing sewage treatment plant, the benefited properties shall be all those properties the sewage from which is treated in such plant, including properties already provided with sewer drainage facilities as well as those properties which the improvement project will provide with such drainage facilities, but the governing body may classify properties according to the extent of benefits to be afforded to them, and may establish one (1) rate of assessment applicable to all

properties participating in the benefits of the sewage treatment installations, and an additional rate of assessment applicable to properties for which the improvement project will also provide sewer drainage facilities. In relation to wastewater collection projects constructed by metropolitan sewer districts, benefited property shall consist of all property whether improved or unimproved to which the project affords a means of discharging wastewater.

(d) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare, that properties other than the properties originally benefited by an improvement under paragraphs (b) or (c) of this subsection, be permitted to connect to such sewer drainage and/or treatment facilities, and may make equitable provisions which may be adjustable from year to year as bonds are retired, whereby the owners of such later-connecting properties, may, by paying charges for the privilege of connecting, and/or by assuming a share of improvement assessments, or otherwise, be placed as nearly as practicable on a basis of financial equity with the owners of properties initially provided to be assessed.

(e) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare that residential properties within one thousand feet (1000'), measured along paved roads, of a fire hydrant in ***a city***~~[cities with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census]~~ may be assessed on the same basis as property abutting upon a street where a fire hydrant is to be installed.

(2) (a) Benefited property owned by the city or county, or owned by the United States government or any of its agencies, if such property is subject to assessment by Act of Congress, shall be assessed annually the same as private property, and the amount of the annual assessment shall be paid by the city, county, or United States government, as the case may be. The same right of action shall lie against the county as against a private owner.

(b) Benefited property owned by the state, except property the title to which is vested in the Commonwealth for the benefit of a district board of education pursuant to KRS 162.010, shall be assessed as follows: Before assessing the state, the governing body shall serve written notice on the secretary of the Finance and Administration Cabinet setting forth specific details including the estimated total amount of any improvement assessment proposed to be levied against any state property relative to any proposed improvement project. Said written notice shall be served prior to the next even-numbered-year regular session of the General Assembly so that the amount of any specific improvement assessment may be included in the biennial executive branch budget recommendation to be submitted to the General Assembly. Payment of any assessment shall be made only from funds specifically appropriated for that assessment. If an amount sufficient to pay the total amount of any assessment has been appropriated, then the total amount shall be paid; if an amount sufficient only to pay annual assessments has been appropriated, then only the amount of the annual assessment shall be paid. The amount of the assessment shall be certified by the city treasurer to the Finance and Administration Cabinet, which shall thereupon draw a warrant upon the State Treasurer, payable to the city treasurer, and the State Treasurer shall pay the same.

(c) In the case of property the title to which is vested in the Commonwealth for the benefit of a district board of education, the amount of the annual assessment shall be paid by the city or other local governmental agency or authority which undertook the improvement project.

(3) No benefited property shall be exempt from assessment.

➔Section 21. KRS 107.190 is amended to read as follows:

If the ordinances and proceedings authorized by this chapter shall encompass and include less than all of the undertakings authorized and contemplated by the definitions set forth in KRS 107.020, (i.e., a street improvement project with or without sidewalk, curb, gutter, and/or storm or surface water sewers or drains or sanitary sewers, or sewage treatment facilities or fire hydrant in ***a city***~~[cities with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census]~~), the city shall not be precluded from ordaining and requiring the omitted matters and structures to be constructed at the expense of the benefited properties at any time in the future, in accordance with the provisions of this chapter, or in accordance with any other applicable laws. If the improvement project shall encompass all of the elements included in the definition of "improvement" or "project" as set forth in this chapter, the city shall not thereafter undertake any project for any part of the improvements as herein defined except (a) at the exclusive cost of the city, or (b) at the cost of the benefited properties from and after fifteen

(15) years after completion and acceptance of the project, or (c) from the proceeds of revenue bonds payable from service charges.

➔Section 22. KRS 154.1-010 is amended to read as follows:

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

(1) "Agribusiness" or "agricultural business entity" means any person, partnership, limited partnership, corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products;

(2) "Approved business network" or "approved flexible industrial network" means a business network comprising three (3) or more business firms or industries which have been identified as key industries and targeted by the state's strategic economic development plan for special consideration and assistance by the agencies of the Commonwealth;

(3) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in KRS 154.20-010;

(4) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in KRS 154.10-010;

(5) "Business network" or "flexible industrial network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities;

(6) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs, including but not limited to engineering, architectural, legal, and accounting fees which are necessary for the project;

(9) "Local and regional economic development interest" means any local business or economic development interest, including but not limited to chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;

(10) "Industrial entity" means any corporation, limited liability company, partnership, limited partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;

(11) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods or processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, including repair, restoration, or conversion of tobacco warehouses, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;

(12) "Key industry" means an industry or business within an industrial sector which has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists, including but not limited to secondary forest products manufacturing, agribusiness, and high technology and biotechnology manufacturing and services;

(13) "Military" and "defense" mean all military and defense installations, entities, activities, and personnel located, operating, or living in Kentucky;

(14) "Municipality" means a county, city, ~~[village, township,]~~development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;

(15) "Network broker" means a person who is trained to assist private sector firms to form business networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination, and other activities;

(16) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;

(17) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;

(18) "Person" means an individual, partnership, joint venture, military facility operated by a department or agency of the United States, profit or nonprofit corporation including a public or private college or university, limited liability company, or other entity or association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

(19) "Private sector" means any source other than the authority, a state or federal entity, or an agency thereof;

(20) (a) "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise.

(b) "Project" includes but is not limited to agribusiness, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; repair, restoration, or conversion of tobacco warehouses for an economic development or commercial use; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right-of-way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. For purposes of this paragraph, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.

(c) Except for airport-related facilities and tax increment financing projects approved under Subchapter 30 of this chapter, "project" does not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

(21) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;

(22) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (20) of this section;

(23) "Reclamation development plan" means a plan submitted to the Energy and Environment Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;

(24) "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;

(25) "State" means the Commonwealth of Kentucky; and

(26) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, the limited liability entity tax imposed by KRS 141.0401, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

➔Section 23. KRS 281.765 is amended to read as follows:

Any peace officer, including sheriffs and their deputies, constables and their deputies, ***city*** police officers~~[and marshals of cities or incorporated towns]~~, county police or patrols, and special officers appointed by any agency of the Commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles and boats or boating, now existing or hereafter enacted, shall be authorized and it is hereby made the duty of each of them to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, and for violations of any other law relating to motor vehicles and boating, without warrant if the offense be committed in his presence, and with warrant or summons if he does not observe the commission of the offense. When in pursuit of any offender for any offense committed within his jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him. If the accused elects not to be so taken, then it shall be the duty of the officer to require of the accused a bail-bond in a sum not less than one hundred dollars ($100), conditioned that the accused binds himself to appear in the court of jurisdiction at the time fixed in the bond, not however in any case later than six (6) days from the day of arrest. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within eighteen (18) hours after taking such bond.

➔Section 24. KRS 146.280 is amended to read as follows:

(1) Within the boundaries of a designated stream area, as established and authorized by the Kentucky General Assembly, the office shall be authorized and empowered to acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title, an easement, or any acceptable lesser interest in any lands, and by lease or conveyance, contract for the right to use and occupy any lands. Where property within such boundaries is owned by the federal government, the office can enter into agreements with the landowning agency concerning use of the property consistent with the objectives of KRS 146.200 to 146.360. Nothing in KRS 146.200 to 146.360 shall be construed to deprive a landowner of the fee simple title to or lesser interest in his property without just compensation.

(2) The office may not exercise authority to acquire lands or interests in lands located within any incorporated city~~[, village,]~~ or county when such entities have in force a duly adopted, valid ordinance or plan for the management, zoning and protection of such lands in accordance with the provisions of KRS 146.200 to 146.360.

➔Section 25. KRS 177.230 is amended to read as follows:

The highway authorities of the state, counties, cities, ***and*** towns, ~~[and villages,]~~acting alone or in cooperation, with each other or with any federal, state, or local agency or any other state having authority to participate in the construction and maintenance of highways, are hereby authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide limited access facilities for public use wherever such authority or authorities are of the opinion that traffic conditions, present or future, will justify such special facilities: provided, that within cities ~~[and villages]~~such authority shall be subject to such municipal consent as may be provided by law. Said highway authorities of the state, counties, cities, ~~[villages,]~~and towns, in addition to the specific powers granted in KRS 177.220 to 177.310, shall also have and may exercise, relative to limited access facilities, any and all additional authority now or hereafter vested in them relative to highways or streets within their respective jurisdictions. Said units may regulate, restrict, or prohibit the use of such limited access facilities by the various classes of vehicles or traffic in a manner consistent with KRS 177.220.

➔Section 26. KRS 177.240 is amended to read as follows:

The highway authorities of the state, county, city, ***and*** town~~[, and village]~~ are authorized to so design any limited access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended, and its determination of such design shall be final. In this connection, such highway authorities are authorized to divide and separate any limited access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes, and other devices. No person shall have any right of ingress or egress to, from, or across limited access facilities to or from abutting lands,

except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

➔Section 27. KRS 177.270 is amended to read as follows:

The highway authority of the state, county, city, ***and*** town~~[, or village]~~ may designate and establish limited access highways as new and additional facilities or may designate and establish an existing street or highway as included within a limited access facility. The state or any of its subdivisions shall have authority to provide for the elimination of intersections at grade of limited access facilities with existing state and county roads, and city and town ~~[or village]~~streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such limited access facility; and after the establishment of any limited access facility, no highway or street which is not part of said facility shall intersect the same at grade. No city~~[,]~~ ***or*** town~~[, or village]~~ street, county or state highway or other public way shall be opened into or connected with any such limited access facility without the consent and previous approval of the highway authority in the state, county, city, ***or*** town~~[, or village]~~ having jurisdiction over such limited access facility. Such consent and approval shall be given only if the public interest shall be served thereby.

➔Section 28. KRS 177.280 is amended to read as follows:

The highway authorities of the state, city, county, ***and*** town~~[, or village]~~ are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of limited access facilities or other public ways in their respective jurisdictions, to facilitate the purposes of KRS 177.220 to 177.310.

➔Section 29. KRS 177.290 is amended to read as follows:

In connection with the development of any limited access facility the state, county, city, ***and*** town~~[, or village]~~ highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets or to designate as local service roads and streets any existing road or street, and to exercise jurisdiction over service roads in the same manner as is authorized over limited access facilities under the terms of KRS 177.220 to 177.310, if in their opinion such local service roads and streets are necessary or desirable. Such local service roads or streets shall be of appropriate design, and shall be separated from the limited access facility proper by means of all devices designated as necessary or desirable by the proper authority.

➔Section 30. KRS 262.180 is amended to read as follows:

(1) The territory of a district shall include all lands lying within the boundaries of a district, including incorporated cities~~[,]~~ ***and*** towns~~[, and villages]~~.

(2) Petitions for including additional territory within an existing district may be filed with the commission, and the proceedings provided for by KRS 262.100 to 262.180 in the case of petitions to organize a district shall be observed as far as may be practicable in the case of petitions for inclusion. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed by KRS 262.100 for petitions to organize a district. The Secretary of State shall receive the application for inclusion of the area within the district and shall attach such application to the original file containing the papers by which such district was organized. Where the total number of landowners in the area proposed for inclusion is less than twenty-five (25), the petition may be filed when signed by a majority of the landowners of the area, and in that case, no referendum need be held. In a referendum upon a petition for inclusion of additional territory, all owners of land lying within the proposed additional area shall be eligible to vote.

➔Section 31. KRS 267.130 is amended to read as follows:

(1) When the court refers to it any proceeding to establish or construct any improvement, the board shall employ a competent drainage engineer, who shall be the chief engineer for the work. The board may prescribe the number of assistant engineers to be selected by the chief engineer. The chief engineer shall have control of the work until completed, or until his removal by the board, and may assign portions to each assistant. He may, with the consent of the board, consult any eminent engineer and obtain his opinion or advice concerning the drainage of the district. He may employ such assistants as are necessary to make a complete topographical survey of the district, and shall enter upon the ground and make a survey of the main drains and all the laterals.

(2) The line of each ditch, drain or levee shall be plainly and substantially marked on the ground. The course and distance of each ditch, and width of right-of-way, shall be carefully noted and sufficient notes made so that it may be accurately plotted and mapped. A line of levels shall be run for the entire work and sufficient data secured from which accurate profiles and plans may be made. Frequent bench marks shall be established along the line, on permanent objects, and their elevation recorded in the field books. Other levels may be run to

determine the fall from one part of the district to another. If an old watercourse, ditch or channel is being altered it shall be accurately cross sectioned, so as to compute the amount of cubic yards saved by the use of the old channel. If a private ditch is utilized, the saving by reason of its use shall be carefully computed and reported, with the name of the owner. A drainage map of the district shall then be completed, showing the location of every improvement and the boundary, as closely as may be reasonably determined, of the lands owned by each individual landowner within the district. The location of any railroad or public highway and the boundary of any incorporated ***city*** ~~[town or village]~~ within the district shall be shown on the map. There shall be prepared to accompany the map a profile showing the surface of the ground, and the bottom or grade of the proposed improvement.

(3) The engineer shall make an estimate of the cost of the work, and plans and specifications therefor, and file the same, together with all maps and profiles, with the county clerk, to be made a part of the record of the proceedings. All such maps, profiles, plans and specifications, together with the report of the engineer and all exhibits filed therewith, shall be made in duplicate, one to be marked original and the other duplicate. If lands in counties other than the one in which the proceeding is pending are affected, an additional copy of the maps and profiles shall be made and filed with the county clerk of the other counties. The original shall not be withdrawn from the custody of the clerk, but the duplicate may be withdrawn for use by the viewers, the board, or for use on the work by the engineer or contractor. This material shall be receipted for by the person withdrawing it, and returned promptly.

➔Section 32. KRS 353.610 is amended to read as follows:

(1) Except as provided in KRS 353.500 to 353.720, no permits shall be issued for the drilling, deepening, or reopening of any shallow well for the production of oil, unless the proposed location of the well shall be at least three hundred thirty (330) feet from the nearest mineral boundary of the premises upon which the well is to be drilled, deepened or reopened; and, the proposed location must be at least six hundred sixty (660) feet from the nearest oil producing well. This subsection shall not be construed to regulate the distance between wells which do not produce oil from the same pool.

(2) Except as provided in KRS 353.500 to 353.720, no permit shall be issued for the drilling, deepening or reopening of any shallow well for the production of gas unless the proposed location of the well shall be at least five hundred (500) feet from the nearest mineral boundary of the premises upon which such well is to be drilled, deepened or reopened; and, the proposed location must be at least one thousand (1,000) feet from the nearest gas producing well. This subsection shall not be construed to regulate the distance between wells which do not produce gas from the same pool.

(3) This section shall not apply:

(a) To wells drilled, deepened, or reopened for the injection of water, gas or other fluids into an oil or gas producing formation.

(b) To any well drilled, deepened or reopened in a pool or portion thereof, which is included in a secondary recovery program commenced or proposed, if the location or proposed location of the well conforms to a geometric pattern already established on all premises which will be offset and affected by the well.

(c) To wells drilled or deepened as water supply wells and geological or structure test holes; or

(d) To premises within the limits of any incorporated city~~[, town or village]~~ which has enacted or enacts hereafter an ordinance regulating the location or spacing of wells for the production of oil and gas at distances of not less than the distances prescribed in this section.

(e) To wells for the production of oil to be drilled, deepened, or reopened and completed at a depth of less than two thousand (2,000) feet where there are no workable beds of coal at lesser depths and the formation from which the oil is expected to be extracted is not appreciably affected by factors, as determined by the commissioner, other than natural drainage. The location of wells for the production of oil coming within this exception shall be at least two hundred (200) feet from the nearest boundary of the premises upon which the well is to be drilled, deepened or reopened; and the proposed location must be at least four hundred (400) feet from the nearest oil producing well. This subsection shall not be construed to regulate the distance between wells which do not produce from the same pool.

➔Section 33. KRS 95.010 is amended to read as follows:

(1) As used in KRS 95.160 to 95.290 and in KRS 95.830 to 95.845, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employee by the division or department head, civil service board, or other lawful authority;

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions;

(c) "Fire department" means the officers, firefighters, and clerical or maintenance employees, including the chief of the fire department;

(d) "Member" means any person in the police or fire department, other than the chief or assistant chief of the department;

(e) "Police department" means the officers, policemen, and clerical or maintenance employees, including the chief of police;

(f) "Police force" means the officers and policemen of the police department, other than the chief of police;

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employee;

(h) "Salary" means any compensation received for services; and

(i) "Suspension" means the separation of an employee from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(2) As used in KRS 95.440 to ***95.629*** ~~[95.630]~~, the following words and terms shall have the following meaning, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employee by the division or department head, civil service board, or other lawful authority;

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions;

(c) "Fire department" means and includes all officers, firefighters, and clerical or maintenance employees of the fire department;

(d) "Police department" means and includes all officers, policemen, and clerical or maintenance employees of the police department;

(e) "Member" means any and all officers, firefighters, policemen, clerical or maintenance employees in the police or fire department, except as used in subsections (1) and (3) of KRS 95.440, and KRS 95.450, 95.460, 95.470, 95.550, 95.560, 95.565, 95.570 and 95.580; it shall not include the chief of police in an urban-county government;

(f) "Police force" means and includes all officers and policemen in the police department;

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employee;

(h) "Firefighter" means a member of the fire department below the rank of officer, other than a clerical or maintenance employee;

(i) "Salary" means any compensation received for services;

(j) "Suspension" means the separation of an employee from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure; and

(k) "Pension fund" shall mean the moneys derived from the members of the police and fire departments' salary or salaries and appropriations by the legislative body, or any other means derived from whatever source by gift or otherwise to be used for the retirement of members of the police and fire departments after the prescribed number of years of service, and for the benefit of disabled members of police and fire departments, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of any member of the police or fire department within the scope of his employment.

(3) As used in KRS 95.761 to 95.784, the following words and terms shall have the following meaning:

(a) "Regular police department." For the purpose of KRS 95.761 to 95.784, a "regular police department" is defined as one having a fixed headquarters, where police equipment is maintained and where a

policeman or policemen are in constant and uninterrupted attendance to receive and answer police calls, and execute regular police patrol duties;

(b) "Regular fire department." For the purpose of KRS 95.761 to 95.784, a "regular fire department" is defined as one having a fixed headquarters where firefighting apparatus and equipment are maintained, and where firefighters are in constant and uninterrupted attendance to receive and answer fire alarms;

(c) "Legislative body." Wherever in KRS 95.761 to 95.784 the term "body" or "legislative body" is employed, it shall be construed to mean the legislative branch of the city government or urban-county government;

(d) "Commission." The word "commission" shall mean the board of civil service commissioners, as established under the terms of KRS 95.761 to 95.784;

(e) "Trustees." The word "trustees" shall mean the board of pension fund trustees, as established under the terms of KRS 95.761 to 95.784; and

(f) "Pension fund." The term "pension fund" shall mean the moneys derived from the policeman or policemen and firefighter or firefighters salary or salaries, and appropriations by the legislative body, or any other sums derived from whatever source by gifts or otherwise to be used for the retirement of policeman or policemen and firefighter or firefighters after the prescribed number of years of service and for the benefit of disabled policeman or policemen and firefighter or firefighters, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of a policeman or firefighter within the scope of his employment, according to the terms of KRS 95.761 to 95.784.

➔Section 34. Nothing in this Act, including the repeal of any statute, shall be interpreted to remove the authorization that a city has to act under the provisions of KRS 82.082.

➔Section 35. The following KRS sections are repealed:

57.285 Printing for political subdivisions to be done within such subdivision.

79.010 Intercity or intercounty compacts for purchasing and merit systems authorized.

79.020 Expenses to be prorated -- Rules and regulations.

79.030 Intercity or intercounty commission -- Membership -- Compensation -- Votes -- Powers.

79.040 Meetings of commission -- Records -- Reports.

79.050 Comptroller -- Appointment -- Powers and duties -- Term of employment.

79.060 Comptroller to have access to records -- Control of personnel -- Purchase of supplies -- Requisitions.

79.070 Legal departments, courts and boards of education not affected.

81A.480 Application of provisions of KRS 81A.050 to 81A.070 and KRS 81A.400 to 81A.470.

82.088 Regulation of adult establishments.

95.505 Firefighters, hours off duty, in cities not required to comply with KRS 95.500.

95.630 Group life insurance for police and fire departments in cities of home rule class.

96.130 City owning own plant may contract to furnish service to another city.

96.140 City may install apparatus and obtain rights of way necessary to furnish or receive service.

96.330 Disposition of revenue from waterworks in city with population of 20,000 or more.

96.340 Punishment for damaging waterworks in city -- Connections with pipes or mains.

Signed by Governor March 21, 2019.

CHAPTER 45

(SB 160)

AN ACT relating to the highway construction contingency account.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The department shall transmit on a quarterly basis, electronic data to the General Assembly through the Legislative Research Commission giving a fiscal year to date funding status report on the highway construction contingency account established under KRS 45.247.

(2) The report shall include:

(a) The available budget of the account;

(b) Authorizations by funding code category;

(c) The total available balance in the account; and

(d) For the most recent quarter, a listing of individual projects and agreements authorized, including the location, a physical description, and amount of authorization.

➔Section 2. KRS 176.433 is amended to read as follows:

The Transportation Cabinet shall create a new funding code to be used in the six (6) year road plan to be known as state contingency funds and the abbreviation the cabinet shall use for this funding code shall be SC. The state contingency funding code shall be in addition to all other funding codes used by the cabinet in the six (6) year road plan and shall be used to identify all projects funded with ***moneys from the highway construction*** ~~[state]~~ contingency account ***established under KRS 45.247*** ~~[moneys]~~.

Became law without Govenor's signature March 26, 2019.

CHAPTER 46

(SB 103)

AN ACT relating to sheriffs and declaring an emergency.

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

➔Section 1. KRS 64.090 is amended to read as follows:

(1) Sheriffs may charge and collect the following fees from the Commonwealth and any of its agencies, including the Department of Kentucky State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of Kentucky State Police makes a request that the sheriff perform any of the following:

(a) Executing and returning process.....$20.00;

(b) Serving an order of court and return 3.00;

(c) Summoning or subpoenaing each witness, fee to be paid by requester to sheriff before service 10.00;

(d) Summoning an appraiser or reviewer 2.00;

(e) Attending a surveyor, when ordered by a court, per deputy or sheriff assigned 20.00;

(f) Taking any bond that he is authorized or required to take in any action 5.00;

(g) Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six percent (6%) on the first three hundred dollars ($300)

and three percent (3%) on the residue; when he or she levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case;

(h) Taking a recognizance of a witness 3.00;

(i) Levying an attachment 5.00;

(j) When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court;

(k) Summoning a garnishee 3.00;

(l) Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted 8.00;

(m) Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff 30.00;

(n) Serving an order or process of revivor 3.00;

(o) Executing a writ of possession against each tenant or defendant 7.00;

(p) Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission;

(q) Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses 8.00;

(r) Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;

(s) Levying for a fee-bill 3.00;

(t) Serving a notice 2.00;

(u) Serving summons, warrants or process of arrest in cases of children born out of wedlock 6.00;

(v) Serving a civil summons in a nonsupport case 10.00;

(w) Serving each order appointing surveyors of roads, to be paid out of the county levy 5.00;

(x) Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant 5.00;

(y) Like services in cases of private passways to be paid by the applicant 5.00;

(z) Executing each writ of habeas corpus, to be paid by the petitioner 3.00;

(aa) All services under a writ issued under KRS 381.460 to 381.570 .....10.00;

(bb) Fingerprinting persons for professional, trade, or commercial purposes, or for personal use, per set of impressions.....10.00;

(cc) Taking or copying photographs for professional, trade,

or commercial purposes, or for personal use, per photograph ..... 5.00; and

(dd) For services in summoning grand and petit jurors and performing his or her duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

(2) Sheriffs may charge and collect a fee of forty dollars ($40) from any person not requesting the service of the sheriff on behalf of the Commonwealth, any of its agencies, or the Department of Kentucky State Police for the services provided in subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.

(3) Sheriffs may charge and collect a fee of twenty-five dollars ($25) for the handling of an impounded vehicle and a fee of twenty-five dollars ($25) per day for the storage of an impounded vehicle.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "hearing board" or "board" means a body:

(a) Established by ordinance;

(b) Empowered to conduct hearings pursuant to this section; and

(c) Composed of one (1) or more persons appointed pursuant to ordinance and any hearing officers appointed by the board.

Any actions of a hearing officer shall be deemed to be the action of the board.

(2) A sheriff may impound a motor vehicle parked, stopped, or standing upon a street or public way within its jurisdiction that is in violation of an ordinance or statute prohibiting parking, stopping, or standing in the location, manner, or at the time the vehicle is cited or for any other lawful reason.

(3) A sheriff may condition the release of an impounded motor vehicle upon the payment of the handling and storage fees imposed thereon, unless the owner or other person entitled to possession challenges the validity of the impoundment pursuant to subsection (4) of this section. A vehicle may be released to the owner or other person entitled to possession only upon proof of ownership or right to possession. The sheriff may require reasonable security, bond, or other assurances of indemnification from a person who is not the registered owner of the vehicle prior to releasing the vehicle to that person.

(4) The owner of a motor vehicle which has been impounded pursuant to this section or other person entitled to possession may challenge the validity of the impoundment and request in writing a hearing before the hearing board. The hearing shall be conducted within ten (10) business days of the date of the request, unless the owner or other person entitled to possession waives the right to the hearing or the sheriff shows good cause for the delay. The sheriff shall retain possession of the vehicle pending the hearing, unless the owner or other person claiming right of possession posts a bond in an amount equal to the fees accrued as of the date of the hearing request, or seventy-five dollars ($75), whichever is less. If the owner or person claiming possession of the vehicle is unable to pay the amount of the bond, the hearing shall be held within seventy-two (72) hours of the date the request for the hearing is received, unless that person requests or agrees to a continuance.

(5) (a) At least five (5) days prior to the date set for the hearing, the sheriff shall notify the person requesting the hearing of the date, time, and place of the hearing. In the case of a hearing required to be held within seventy-two (72) hours of the date of the request as provided in subsection (4) of this section, the person requesting the hearing shall be informed at the time of his or her request, or as soon thereafter as is practicable, of the date, time, and place of the hearing.

(b) Any person who refuses or, except for good cause, fails to appear at the date, time, and place set for the hearing shall be deemed to have conceded on that person's and owner's behalf that the impoundment was valid and reasonable.

(c) At the hearing, after consideration of the evidence, the board shall determine whether the impoundment was valid and reasonable. If the board determines the impoundment was:

1. Valid and reasonable, the board shall uphold the impoundment and condition the release of the vehicle upon payment of all fees accruing thereto. If a bond was posted as security for release of the vehicle, the bond shall be forfeited to the sheriff. Any fees in excess of the

amount of the bond posted shall be ordered to be paid by the owner of the vehicle to the sheriff; or

2. Not valid and reasonable, an order releasing the vehicle shall be entered. All fees paid or amounts posted as bond because of the impoundment of the vehicle shall be returned.

The board shall furnish the owner or person appearing on the owner's behalf with a copy of its order.

(d) The board may consider a parking citation and any other written report made under oath by the issuing officer in lieu of the officer's personal appearance at the hearing.

(e) An appeal from the hearing board's determination may be made to the District Court of the county in which the sheriff is located within seven (7) days of the board's determination. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same manner as any civil action. The action shall be tried de novo and the burden shall be on the sheriff to establish that the impoundment was valid and reasonable. If the court finds that the impoundment was:

1. Valid and reasonable, the owner shall be ordered to pay all fees accruing thereto as of the date of judgment; or

2. Not valid and reasonable, the sheriff shall be ordered to release the vehicle, if applicable, and to return all fees paid as a result of the impoundment and the plaintiff shall be authorized to recover his or her costs.

(f) The judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

➔Section 3. Whereas confusion exists as to whether a sheriff may charge for the storage of impounded vehicles, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2019.

CHAPTER 47

(SB 104)

AN ACT relating to fire prevention.

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

➔SECTION 1. A NEW SECTION OF KRS 227.200 TO 227.410 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Class B firefighting foam" means foams designed for flammable liquid fires;

(b) "PFAS chemicals" means perfluoroalkyl and polyfluoroalkyl substances which, for the purpose of firefighting agents, is a class of fluorinated organic chemicals containing at least one (1) fully fluorinated carbon atom;

(c) "Testing" means calibration testing, conformance testing, and fixed system testing.

(2) Beginning on July 15, 2020, class B firefighting foam that contains intentionally added PFAS chemicals shall not be used for firefighting training purposes or testing purposes unless otherwise required by law, regulation, or ordinance, and the testing facility has implemented best industry practices to prevent uncontrolled releases of class B firefighting foam in the environment. Violation of this subsection shall be subject to KRS 227.336.

(3) The restrictions in subsection (2) of this Act shall not apply to:

(a) The manufacture, sale, or distribution of class B firefighting foam that contains intentionally added PFAS chemicals; or

(b) The discharge or other use of class B firefighting foam that contains intentionally added PFAS chemicals in emergency firefighting operations.

Signed by Governor March 22, 2019.

CHAPTER 48

(SB 107)

AN ACT relating to automatic enrollment in the Kentucky Public Employees Deferred Compensation Authority plans.

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

➔Section 1. KRS 18A.250 is amended to read as follows:

(1) The authority shall establish and maintain a deferred compensation plan for the employees of the State of Kentucky. Participation in such plan shall be by agreement between such employees and the authority and shall provide for the deferral of such amount of compensation as requested by the employee. Participating employees must authorize that such deductions be made from their wages for the purpose of participation in such program. Amounts so deducted shall be deposited in the State Treasury to the credit of the trust fund.

(2) The board is directed to develop and obtain, for the benefit of employees, a qualified employee plan that includes a qualified cash or deferred arrangement as described in Section 401(K)~~[(2)]~~ of the Internal Revenue Code. The board is directed to develop a program for participants to borrow from their account or accounts in the plan. The plan shall be in addition to other plans offered by the board, and shall be offered to employees upon receipt of appropriate approval of the Internal Revenue Service or on January 1, 1985, whichever occurs later.

(3) Notwithstanding the provisions of KRS 337.060, agreements to participate and plan elections made by employees pursuant to subsections (1) and (2) of this section may be made in writing or by electronic record, signature, or contract as determined by the authority and in accordance with the provisions of KRS 369.101 to 369.120. Agreements and elections, including but not limited to hardship withdrawal applications, loan applications, beneficiary designations, and withdrawal requests made by participating employees under the plan, shall not be denied legal effect or enforceability if made electronically to the extent permitted by the authority.

(4) Notwithstanding KRS 337.060 and subsections (1) to (3) of this section, each full-time employee of the executive, judicial, and legislative branches of Kentucky state government hired on or after July 1, 2019, shall be automatically enrolled in the 401(K) plan established pursuant to this section, and the employee's compensation shall be reduced by thirty dollars ($30) per month and contributed as a pre-tax deferral to the 401(K) plan unless and until the employee makes a deferral election under the terms of the 401(K) plan. The automatic enrollment shall begin as of the employee's first paycheck or as soon as administratively feasible thereafter. The board shall select a default investment fund or funds, pursuant to applicable federal law, for investment of an employee's deferrals into the employee's account until the employee makes an investment election. The board shall amend the 401(K) plan for the implementation and administration of employee automatic enrollment, and the board shall have authority to implement automatic enrollment consistent with applicable requirements of the Internal Revenue Code of 1986, as amended.

➔Section 2. The Kentucky Public Employees Deferred Compensation Authority shall provide an update on the development of the automatic enrollment provisions enacted by Section 1 of this Act to the Public Pension Oversight Board no later than December 31, 2019. The update shall include any issues as it relates to state or federal law or potential options to improve employee participation in the Kentucky Public Employees Deferred Compensation Authority plans.

Signed by Governor March 22, 2019.

CHAPTER 49

(SB 61)

AN ACT relating to students of chiropractic.

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

➔Section 1. KRS 312.018 is amended to read as follows:

(1) No person shall engage or attempt to engage in the practice of chiropractic or hold himself out to be a doctor of chiropractic in Kentucky unless licensed in accordance with the provisions of this chapter.

(2) The provisions of subsection (1) of this section shall not apply to volunteer health practitioners providing services under KRS 39A.350 to 39A.366.

(3) Nothing in this chapter shall be construed to prevent a student of chiropractic from engaging in clinical practice under the supervision of a licensed chiropractor as part of the student's educational program.

Signed by Governor March 22, 2019.

CHAPTER 50

(SB 124)

AN ACT relating to conservation.

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

➔Section 1. KRS 224.10-022 is amended to read as follows:

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

➔Section 2. KRS 224.71-100 is amended to read as follows:

As used in KRS 224.71-100 to 224.71-140, unless the context requires otherwise:

(1) "Agriculture operation" means any farm operation on a tract of land, including all income-producing improvements and farm dwellings, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land used for the production of livestock, livestock products, poultry, poultry products, milk, milk products, or silviculture products, or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, small grains, fruit and vegetables; or devoted to and meeting the requirements and qualifications for payments to agriculture programs under an agreement with the state or federal government;

(2) "Bad actor" means any person engaged in agriculture operations, who receives written notification of documented water pollution and of the agriculture water quality plan needed to prevent water pollution, and is

provided technical assistance, and financial assistance when possible, to implement the agriculture water quality plan, but still refuses or fails to comply with the requirements of the agriculture water quality plan;

(3) "Best management practices" means, for agriculture operations, the most effective, practical, and economical means of reducing and preventing water pollution provided by the United States Department of Agriculture ***Natural Resources*** ~~[Soil]~~ Conservation Service and the Soil and Water Conservation Commission. Best management practices shall establish a minimum level of acceptable quality for planning, siting, designing, installing, operating, and maintaining these practices;

(4) "Conservation plan" means a plan, provided by the United States Department of Agriculture ***Natural Resources*** ~~[Soil]~~ Conservation Service and the Soil and Water Conservation Commission, describing best land management practices, including an installation schedule and maintenance program, which when completely implemented, will improve and maintain soil, water, and related plant and animal resources of the land;

(5) "Compliance plan" means a conservation plan containing best management practices developed for persons engaged in agriculture operations by the United States Department of Agriculture ***Natural Resources*** ~~[Soil]~~ Conservation Services, in conjunction with local conservation districts as required for eligibility under the Federal Food Security Act;

(6) "Forest stewardship management plan" means a plan developed by the cabinet's Division of Forestry, the cabinet's Division of Conservation, the Department of Fish and Wildlife Resources, and the United States Department of Agriculture ***Natural Resources*** ~~[Soil]~~ Conservation Service which establishes practices for a person engaged in agriculture operations to manage forest lands in accordance with sound silvicultural principles;

(7) "Conservation district" means a subdivision of state government organized pursuant to KRS Chapter 262 for the specific purpose of assisting persons engaged in agriculture operations and land users in solving soil and water resources problems, setting priorities for conservation work to be accomplished, and coordinating the federal, state, and local resources to carry out these programs;

(8) "Groundwater" means subsurface water occurring in the zone of saturation beneath the water table and any perched water zones below the B soil horizon;

(9) "Water priority protection region" means an area specifically delineated where water pollution from agriculture operations has been scientifically documented;

(10) "Agriculture water quality plan" means a document incorporating the conservation plan, compliance plan, or forest stewardship management plan as necessary to prevent groundwater and surface water pollution from an agriculture operation;

(11) "Surface water" means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters, marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Effluent ditches and lagoons used for waste treatment which are situated on property owned, leased, or under valid easement by a permitted discharger shall not be considered to be surface waters of the Commonwealth;

(12) "Soil and Water Conservation Commission" means the commission created in KRS 146.090 for the purpose of administering the organization of conservation districts; and

(13) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.

➔Section 3. KRS 224.71-110 is amended to read as follows:

(1) The Agriculture Water Quality Authority is created and administratively attached to the cabinet. The authority shall be a multidiscipline peer group that shall evaluate, develop, and improve best-management practices in conservation plans, compliance plans, and forest stewardship management plans; establish statewide and regional agriculture water quality plans; and otherwise promote soil and water conservation activities that protect waters of the Commonwealth from the adverse impacts of agriculture operations within the Commonwealth. The cabinet shall provide staff to the authority.

(2) Within six (6) months of July 15, 1994, the Soil and Water Conservation Commission shall submit to the Governor for appointment to the Agriculture Water Quality Authority a list of three (3) persons recommended by each of the following state agencies and organizations:

(a) Kentucky Association of Conservation Districts;

(b) Kentucky Department of Agriculture;

(c) University of Kentucky College of Agriculture Cooperative Extension Service;

(d) Kentucky Farm Bureau Federation, Inc.;

(e) Division of Conservation, Energy and Environment Cabinet;

(f) Division of Forestry, Energy and Environment Cabinet;

(g) Kentucky Geological Survey; and

(h) Environmental organizations.

The membership of the Agriculture Water Quality Authority appointed by the Governor shall consist of one (1) representative from each of the groups identified in paragraphs (a) to (h) of this subsection and three (3) members at large from agriculture operations. The Soil and Water Conservation Commission shall solicit nominations from Kentucky agriculture operations organizations and submit those names to the Governor for selection of the three (3) members at large from agriculture operations. The Governor shall select four (4) members to serve two (2) year initial terms, four (4) members to serve three (3) year initial terms, and three (3) members to serve four (4) year initial terms. All succeeding terms shall be four (4) year terms. A representative from the ***Natural Resources*** ~~[United States Soil]~~ Conservation Service and a representative from the United States ***Department of*** Agriculture ***Farm Service Agency*** ~~[Stabilization and Conservation Service]~~ may also be appointed by the Governor to serve on the authority. One (1) representative each from the Division of Water, Energy and Environment Cabinet and the ***Department for*** ~~[Division of]~~ Public Health ~~[Protection and Safety]~~, Cabinet for Health and Family Services shall serve as ex officio members.

(3) It shall be the responsibility of the Agriculture Water Quality Authority to establish, at a minimum, the following four (4) committees for agriculture operations, with membership outside the Agriculture Water Quality Authority:

(a) Livestock and poultry;

(b) Crops, including but not limited to tobacco, corn, soybeans, small grains, fruits and vegetables, pasture and timber;

(c) Pesticides, fertilizers, and other agricultural chemicals; and

(d) Farmstead issues.

(4) The Agriculture Water Quality Authority shall have the following responsibilities:

(a) Review water quality data as available;

(b) Review university research on water quality and alternative best-management practices research;

(c) Evaluate the adoption and effectiveness of best-management practices, and modify best-management practice design standards to improve water quality protection practices;

(d) Develop by July 1, 1996, statewide agriculture water quality plans to address identifiable water pollution problems from agriculture operations, and continue to evaluate and modify the agriculture water quality plans, as necessary to prevent water pollution from agriculture operations;

(e) Assist with the review of state-funded and other water quality monitoring data and with the establishment of agriculture water priority protection regions;

(f) Provide technical assistance to persons engaged in agriculture operations and to the Soil and Water Conservation Commission in its efforts to coordinate water quality protection as related to agriculture operations;

(g) Work with the ***Natural Resources*** ~~[United States Soil]~~ Conservation Service, United States ***Department of*** Agriculture ***Farm Service Agency*** ~~[Stabilization and Conservation Service]~~, and conservation districts to disseminate to agriculture operations the best-management practices, conservation plans, compliance plans, forest stewardship management plans, and agriculture water quality plans which address the protection of groundwater and surface water;

(h) Provide the Governor and the Legislative Research Commission with biennial reports of the progress of the Agriculture Water Quality Authority program; and

(i) Establish procedures for modifications to be incorporated into statewide or regional agriculture water quality plans.

(5) The cabinet's Division of Water shall approve or disapprove any statewide and regional water quality plan within thirty (30) days of receiving the plan from the Agriculture Water Quality Authority. All provisions of a statewide or regional water quality plan not found deficient shall be approved. If the Division of Water finds any provision of the statewide or regional agriculture water quality plan deficient, the Division of Water shall give written notice to the authority of those provisions found to be deficient. Within the thirty (30) days following the notice of deficiency, the authority shall deliver to the Division of Water a written response setting forth proposed solutions to the deficiencies. Any deficiencies which remain unresolved shall be resolved in a manner agreed to jointly by the Division of Water and the authority within sixty (60) days unless the Division of Water and authority jointly agree to an extension or alternate dispute resolution. The Division of Water shall approve or disapprove all modifications to the statewide and regional plans as set forth at KRS 224.71-120(8).

➔Section 4. KRS 262.850 is amended to read as follows:

(1) This section shall be known as "the Agricultural District and Conservation Act."

(2) It is the policy of the state to conserve, protect and to encourage development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the policy of this state to conserve and protect the agricultural land base as a valuable natural resource which is both fragile and finite. The pressure imposed by urban expansion, transportation systems, water impoundments, surface mining of mineral resources, utility rights-of-way and industrial development has continually reduced the land resource base necessary to sufficiently produce food and fiber for our future needs. It is the purpose of this section to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state's economy and as an important resource.

(3) The local governing administrative body for an agricultural district shall be the conservation district board of supervisors. The Soil and Water Conservation Commission shall be responsible for statewide administration of the agricultural district program and shall have sole authority to certify or deny agricultural district petitions. The commission may apply for assistance and funds from the Federal Farmland Protection Act of 1981 (Pub. L. 97-377) which may be available for the development of the agricultural district program and may accept easements as provided in KRS 65.410 to 65.480.

(4) Any owner or owners of land may submit a petition to the local conservation district board of supervisors requesting the creation of an agricultural district within the county. The petition shall include a description of the proposed area, description of each land parcel, location of the proposed boundaries, petitioners' names and addresses, adjacent landowners' names and addresses, and other pertinent information as required in the petition application. The boundary of an agricultural district shall be contiguous. No land shall be included in an agricultural district without the consent of the owner.

(5) Upon receipt of a petition, the local conservation district board of supervisors shall notify the fiscal court and any local or regional planning or zoning body, if any, by sending a copy of the petition and accompanying materials to that body.

(6) The following factors shall be considered by the local conservation district board of supervisors and the Soil and Water Conservation Commission when considering the formation of any agricultural district:

(a) The capability of the land to support agricultural production, as indicated by: soil, climate, topography or other natural factors;

(b) The viability of active farmlands, as indicated by: markets for farm products, extent and nature of farm improvements, present status of farming, anticipated trends in agricultural economic conditions and technology;

(c) That the proposed agricultural district meets the minimum size limit of two hundred fifty (250) contiguous acres, unless the local conservation district board and the Soil and Water Conservation Commission allow fewer than two hundred fifty (250) contiguous acres if the proposed area meets a minimum annual production performance established by the district board and approved by the commission;

(d) County development patterns and needs and the location of the district in relation to any urban development boundaries within the county;

(e) Any matter which may be relevant to evaluate the petition; and

(f) Whether an application is from more than one (1) farm owner, in which case a preference shall be given to the application.

(7) The local soil and water conservation district board of supervisors shall review the petition application and submit a recommendation to the Soil and Water Conservation Commission within ***one hundred (100)*** ~~[sixty (60)]~~ days of receipt. The local conservation district recommendation shall be submitted to the commission in the form of approval, approval with modifications, or denial of the petition accompanied by justification for such a denial.

(8) The Soil and Water Conservation Commission shall review the recommendation of the district board of supervisors and certify or deny the agricultural district's petition within ***one hundred (100)*** ~~[sixty (60)]~~ days of receipt.

(9) Upon the approval of a petition by the Soil and Water Conservation Commission, the commission shall notify the area development district in which the agricultural district will lie, the local county clerk, and the secretary of the Governor's Cabinet.

(10) Land within the boundary of an agricultural district shall not be annexed.

(11) The owners of land within the boundary of an agricultural district shall be exempt under KRS 74.177 from any assessment authorized for the extension of water service lines until the land is removed from the district and developed for nonagricultural use. Any member, or any successor heir of the member, of an agricultural district may withdraw from the district upon notifying the local conservation district board of supervisors in writing.

(12) It shall be the policy of all state agencies to support the formation of agricultural districts as a means of preserving Kentucky's farmlands and to mitigate the impact of their present and future plans and programs upon the continued agricultural use of land within an agricultural district.

(13) Agricultural districts shall be comprised only of agricultural land as defined in KRS 132.010.

(14) An agricultural district shall be established for five (5) years with a review to be made by the local soil and water conservation district board of supervisors at the end of the five-year period and every five (5) years thereafter. Each owner of land shall agree to remain in the district for a five (5) year period, which is renewable at the end of the five (5) years. However, the board shall make a review any time upon the written request of a local government which demonstrates that the review is necessary in order to consider development needs of the local government. The board shall consider whether the continued existence of the district is justified, any adjustments which may be necessary due to urban or county development, and other factors the board finds relevant. The board shall revise the district as necessary based on the review and subject to approval of the State Soil and Water Conservation Commission. Before the state commission takes final action, all interested parties shall be given the opportunity to request the state commission to amend or overturn the local board's decision.

(15) The withdrawal of a member from a district reducing the remaining acreage of agricultural district land to less than two hundred fifty (250) acres or resulting in the remaining land being noncontiguous shall not cause the decertification of the district.

(16) Any member of an agricultural district who has received a summons of condemnation proceedings being instituted concerning the member's land located in the district may request the local soil and water conservation district board of supervisors to hold a public hearing on the proposed taking of land. However a hearing under this section shall not be held if the petitioner in the condemnation proceeding is a utility as defined in KRS 278.010(3) and obtained a certificate of convenience and necessity as required by KRS 278.020(1).

(17) (a) The board shall notify the local property valuation administrator of the farms which belong to an agricultural district and whenever a farm is withdrawn from a district. The board shall also inform all members of a district of the right to have their land assessed by the local property valuation administrator at the land's agricultural use value and shall offer advice and assistance on obtaining such an assessment.

(b) The board shall also notify the local property valuation administrator whenever a farm is released or withdrawn from an agricultural district.

(18) The board may allow an amendment to an existing certified agricultural district if approved by the commission.

➔Section 5. KRS 262.900 is amended to read as follows:

~~[(1)]~~As used in KRS 262.900 to 262.920, unless the context clearly indicates otherwise:

(1) ~~[(a)]~~ "Agricultural conservation easement" or "easement" means an interest in land, less than fee simple, which represents the right to restrict or prevent the development or improvement of the land for purposes other than agricultural production. The easement may be granted by the owner of the fee simple to the Commonwealth or to a qualified organization described in Section 170(c) of the Internal Revenue Code. It may be granted in perpetuity, as the equivalent of the covenants running with the land***;*** ~~[.]~~

(2) ~~[(b)]~~ "Agricultural district" means a land use category created by voluntary agreement between the Commonwealth and one (1) or more landowners under Kentucky's agricultural district law, KRS 262.850, where the primary use of land is and will remain to be agriculture***;*** ~~[.]~~

(3) ~~[(c)]~~ "Agricultural production" means the production for commercial purposes of crops, livestock and livestock products, and nursery and greenhouse products, including the processing or retail marketing of these crops, livestock and livestock products, and nursery and greenhouse products, if more than fifty percent (50%) of those processed or merchandised products are produced by the farm operator, and the raising and stabling of horses for commercial purposes***;*** ~~[.]~~

(4) ~~[(d)]~~ "Applicant" means a person or qualified organization described in Section 170(c) of the Internal Revenue Code offering to sell to the PACE Corporation under the PACE Program an easement on a tract of land which is in or available for agricultural use***;*** ~~[.]~~

(5) ~~[(e)]~~ "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture***;*** ~~[.]~~

(6) ~~[(f)]~~ "Bargain sale" means the sale of an easement by a landowner at a price below appraised market value, when a portion of the value of the easement is donated by the landowner in a properly executed document as a charitable contribution to a qualified organization described in Section 170(c) of the Internal Revenue Code***;*** ~~[.]~~

(7) ~~[(g)]~~ "Capability class" means a group of soils that have similar characteristics when used for field crop production***;*** ~~[.]~~

(8) ~~[(h)]~~ "Comparable sales" means market sales of similar land. In locating comparable sales, first priority shall be given to parcels located in the same general vicinity. The second priority shall be given to farms located in other areas***;*** ~~[.]~~

(9) ~~[(i)]~~ "Conservation plan" means a plan describing best land management practices, including an installation schedule and maintenance program, which, when completely implemented, will improve and maintain soil, water, and related plant and animal resources of the land***;*** ~~[.]~~

(10) ~~[(j)]~~ "Contract of sale" means a legally enforceable agreement in a form provided by the PACE Board obligating the owner of a farmland tract to sell and the Commonwealth to purchase an easement or other less-than-fee interest on the farmland tract***;*** ~~[.]~~

(11) ~~[(k)]~~ "Commonwealth funds" means money appropriated to the PACE Corporation for the purchase of agricultural conservation easements***;*** ~~[.]~~

(12) ~~[(l)]~~ "Development" means the carrying out of any material change in the use or appearance of land, or dividing into two (2) or more parcels***;*** ~~[.]~~

(13) ~~[(m)]~~ "Easement value" means the value per acre as determined by a numerical point system or, if an appraisal is used, the difference between the unrestricted value of a farm and its value as restricted by an easement. If only one (1) appraisal is used, unrestricted value is equal to market value and restricted value is equal to the value of the farm, subject to an agricultural conservation easement. If the landowner obtains an independent appraisal, easement value shall be calculated according to the average between the landowner's appraisal and the numerical point system, or if the Commonwealth also obtains an appraisal, the average between the landowner's appraisal and the Commonwealth's appraisal***;*** ~~[.]~~

(14) ~~[(n)]~~ "Eligible land" means a farmland tract in which the Commonwealth may acquire an agricultural conservation easement or other property interest as provided by this section***;*** ~~[.]~~

(15) ~~[(o)]~~ "Farm" means land in the Commonwealth which is being used for or is available for agricultural production as defined in this section***;*** ~~[.]~~

(16) ~~[(p)]~~ "Farmland tract" means land constituting all or part of a farm that is proposed for the purchase of an agricultural conservation easement***;*** ~~[.]~~

(17) ~~[(q)]~~ "Farmland value" means the price as of the valuation date for property used for normal farming operations, subject to the terms of an agricultural conservation easement, which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property***;*** ~~[.]~~

(18) ~~[(r)]~~ "Fund" means the agricultural enhancement fund created by KRS 262.920***;*** ~~[.]~~

(19) ~~[(s)]~~ "Grantor" means the person or entity holding title to the farmland tract on which an easement is conveyed***;*** ~~[.]~~

(20) ~~[(t)]~~ "Grazing or pasture land" means land used for horse paddocks or the growing of grasses and legumes which are consumed by livestock in the field, and at least ninety percent (90%) of which is clear of trees, shrubs, vines, or other woody growth not consumed by livestock***;*** ~~[.]~~

(21) ~~[(u)]~~ "Harvested cropland" means land used for the commercial production of field crops, fruit crops, vegetables, and horticultural specialties, such as flowers, nursery stock, and ornamentals***;*** ~~[.]~~

(22) ~~[(v)]~~ "Horse paddock" means an enclosed area used for pasturing and exercising horses***;*** ~~[.]~~

(23) ~~[(w)]~~ "Landowner" means a person holding title to land***;*** ~~[.]~~

(24) ~~[(x)]~~ "Market value" means the price as of the valuation date for the highest and best use of the property which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property***;*** ~~[.]~~

(25) ~~[(y)]~~ "Nonprofit land conservation organization" means nonprofit organization dedicated to land conservation purposes recognized by the Internal Revenue Service as a tax-exempt organization under Section 170(c) of the Internal Revenue Code***;*** ~~[.]~~

(26) ~~[(z)]~~ "PACE Corporation" means the Purchase of Agricultural Conservation Easement Corporation created by KRS 262.906(1)***;*** ~~[.]~~

(27) ~~[(aa)]~~ "PACE board" means the board of directors of the Purchase of Agricultural Conservation Easement Corporation created by KRS 262.906(2)***;*** ~~[.]~~

(28) ~~[(ab)]~~ "Qualified organization" means a tax-exempt organization described in Section 170(c) of the Internal Revenue Code***;*** ~~[.]~~

(29) ~~[(ac)]~~ "Reserved life estate" means property deeded to a nonprofit organization during an owner's lifetime with the owner retaining full use of and responsibility for the property until the death of the last survivor of those retaining life estates, whereupon, the responsibility of the property falls to the nonprofit organization. The property owner is entitled to an income tax deduction based on an appraised value and Internal Revenue Service actuarial tables, and the taxable estate may also be reduced***;*** ~~[.]~~

(30) ~~[(ad)]~~ "Restricted land" means land and buildings, the use of which is subject to the terms of an agricultural conservation easement***;*** ~~[.]~~

(31) ~~[(ae)]~~ "Restricted value" means the price as of the valuation date for property subject to an agricultural conservation easement which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property***;*** ~~[.]~~

(32) ~~[(af)]~~ "Soils report" means a report which sets forth the amount and description of each soil type and class found on a specific farm***;*** ~~[.]~~

(33) ~~[(ag)]~~ "Title report" means a report prepared by a person authorized by the state to engage in the sale of title insurance or an attorney setting forth the existence of any liens, restrictions, or other encumbrances on a farmland tract***;*** ~~[.]~~

(34) ~~[(ah)]~~ "Unrestricted value" means the current market value of a property***;*** ~~[.]~~

(35) ~~[(ai)]~~ "USDA" means the United States Department of Agriculture***; and*** ~~[.]~~

~~***(36)*** [(aj) "USDA-SCS" means the Soil Conservation Service of the United States Department of Agriculture.~~

~~(ak)~~] "Viable agriculture land" means land suitable for agricultural production and which will continue to be economically feasible for use if real estate taxes, farm use restrictions, and interference with and constraints on normal farming operations are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related nonagricultural development.

➔Section 6. KRS 353.655 is amended to read as follows:

(1) No operator shall utilize shackle rods or related cables for the production of oil or gas without the permission of the present owner of the land upon which the wells exist or are drilled unless such rods or cables are placed in conduit and buried at least twenty-four (24) inches below the surface of the land between all wellheads and power stations or are attached to power poles with the rods or cables twenty (20) feet above the surface of the land between all wellheads and power stations.

(2) Nothing in this section shall apply to lands classified by the ***Natural Resources***~~[United States Soil]~~ Conservation Service as class 5, 6, 7, or 8.

➔Section 7. The following KRS section is repealed:

262.096 Budget reports -- What to include.

➔Section 8. The General Assembly confirms Executive Order 2018-601, dated July 25, 2018, to the extent not otherwise confirmed or superseded by this Act, relating to the reorganization of the Energy and Environment Cabinet.

Signed by Governor March 22, 2019.

CHAPTER 51

(SB 97)

AN ACT relating to sexual assault forensic evidence kits.

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

➔Section 1. KRS 16.132 is amended to read as follows:

(1) The Department of Kentucky State Police shall request from other law enforcement agencies, pursuant to KRS 17.150, and shall collect statistical data regarding the reporting and investigation of any person charged with committing, attempting to commit, or complicity to a sexual offense as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310, and on the number of sexual assault evidence kits, as defined in KRS 216B.400, which are submitted to law enforcement agencies, the number of such kits submitted to the Department of Kentucky State Police forensic laboratory, and the number of kits tested.

(2) The information collected pursuant to this section for the previous calendar year shall be provided by May 1, 2018, and by each May 1 thereafter to the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

(3) The department shall by July 1, 2020, create and implement a tracking process for sexual assault forensic evidence kits. The department shall by December 1, 2020, promulgate administrative regulations governing the tracking process. The tracking process shall include, and the administrative regulations promulgated pursuant to this subsection shall require, a public portal allowing victims to access the system, and shall provide for the information to be submitted to the Department of Kentucky State Police.

Signed by Governor March 22, 2019.

CHAPTER 52

(SB 89)

AN ACT relating to methamphetamine.

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

➔SECTION 1. A NEW SECTION OF KRS 65.8801 TO 65.8839 IS CREATED TO READ AS FOLLOWS:

A local government may provide by ordinance for the abatement and decontamination of a property where a methamphetamine contamination notice has been posted as provided in KRS 224.1-410.

➔Section 2. KRS 65.8840 is amended to read as follows:

(1) As used in this section:

(a) "Abatement costs" means a local government's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve public health, safety, and welfare in accordance with any local government ordinance;

(b) "Automobile collector" means a person who collects and restores motor vehicles;

(c) "Code enforcement board" means an administrative body created and acting under the authority of KRS 65.8801 to 65.8839;

(d) "Code enforcement officer" means a city police officer, safety officer, citation officer, county police officer, sheriff, deputy sheriff, university police officer, airport police officer, or other public law enforcement officer with the authority to issue a citation;

(e) "Imminent danger" means a condition which is likely to cause serious or life-threatening injury or death at any time;

(f) "Local government" means any county, consolidated local government, urban-county government, charter county government, unified local government, or city of any class;

(g) "Ordinance" means an official action of a local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance;

(h) "Ordinary public view" means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property;

(i) "Owner" means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property;

(j) "Parts car" means an automobile that is not intended to be operated along streets and roads, but is used to provide parts for the restoration of other automobiles; and

(k) "Premises" means a lot, plot, or parcel of land, including any structures upon it.

(2) (a) The provisions of this section may be enforced through a code enforcement board pursuant to KRS 65.8801 to 65.8839, or by any other means authorized by law, including but not limited to direct enforcement through the enactment of an ordinance as provided in subsection ***(7)***~~[(6)]~~ of this section.

(b) If the provisions of this section are enforced through a code enforcement board pursuant to KRS 65.8801 to 65.8839, the provisions of subsections ***(8)***~~[(7)]~~, ***(9)***~~[(8)]~~, and ***(10)***~~[(9)]~~ of this section shall not apply, and KRS 65.8801 to 65.8839 shall supersede any conflicting provisions of this section.

(3) Except as provided in subsection (4) of this section, it shall be unlawful for the owner, occupant, or person having control or management of any premises within a local government to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:

(a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;

(b) One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or inoperative and which are not inhabited;

(c) Rubbish; or

(d) The excessive growth of weeds or grass.

(4) The provisions of subsection (3)(a) of this section shall not apply to:

(a) Junked, wrecked, or inoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a:

1. Licensed automotive recycling dealer as described in KRS 190.010(8);

2. Used motor vehicle dealer as defined in KRS 190.010(6): or

3. Motor vehicle auction dealer as defined in KRS 190.010(11);

(b) Junked, wrecked, or inoperative motor vehicles, including parts cars, stored on private premises by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery, or other means; and

(c) Any motor vehicle as defined in KRS 281.010 that is owned, controlled, operated, managed, or leased by a motor carrier.

(5) An owner shall not permit any structure upon his or her premises to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist on the structure or premises which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the local government.

(6) A local government may provide by ordinance for the abatement and decontamination of a property where a methamphetamine contamination notice has been posted as provided in KRS 224.1-410. Pursuant to subsections (7) and (8) of this section, notice and an opportunity to request a hearing shall be afforded to an owner prior to decontamination of the property. A lien for all fees, charges, and costs incurred by the local government in the enforcement of an ordinance related to decontaminating a property where a methamphetamine contamination notice has been posted pursuant to KRS 224.1-410, shall be placed on the property pursuant to subsection (9) of this section. Notwithstanding subsections (12) and (13) of this section, the costs of abatement and decontamination of a property where a methamphetamine contamination notice has been posted are recoverable throughout the county.

(7) ~~[(6)]~~ Any local government may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Any ordinance establishing these procedures may be enforced by any means authorized by law. Proper notice shall be given to owners before any action is taken pursuant to this section, and, prior to the ***decontamination of a property where a methamphetamine contamination notice has been posted pursuant to KRS 224.1-410 or the*** demolition of any unfit or unsafe structure, ***the opportunity*** ~~[the right]~~ to ***request*** a hearing shall be afforded the owner.

(8) ~~[(7)]~~ Unless imminent danger exists on the subject premises that necessitates immediate action, the local government shall send, within fourteen (14) days of a final determination after hearing or waiver of hearing by the owner, a copy of the determination to any lien holder of record of the subject premises by first-class mail with proof of mailing. The lien holder of record may, within forty-five (45) days from receipt of that notice, correct the violations cited or elect to pay all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs, as permitted by subsection ***(9)*** ~~[(8)]~~ of this section.

(9) ~~[(8)]~~ A local government shall have a lien against the property for all civil fines assessed for the violation and for all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs. The affidavit of the code enforcement officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this section, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board, and city taxes, except as provided in subsection ***(10)*** ~~[(9)]~~ of this section. The local government shall possess the lien for ten (10) years following the date of the final, nonappealable order of a code enforcement board or final judgment of the court. The lien may be enforced by judicial proceeding.

(10) ~~[(9)]~~ The lien provided in subsection ***(9)*** ~~[(8)]~~ of this section shall not take precedence or priority over a previously recorded lien if:

(a) The local government failed to provide the lien holder a copy of the determination in accordance with subsection ***(8)*** ~~[(7)]~~ of this section; or

(b) The lien holder received a copy of the determination as required by subsection ***(8)***~~[(7)]~~ of this section, and the lien holder corrected the violations or paid all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs.

(11)~~[(10)]~~ In addition to the remedy prescribed in subsection ***(7)***~~[(6)]~~of this section or any other remedy authorized by law, the owner of a premises upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all civil fines assessed for the violation and all charges, fees, and abatement costs incurred by the local government in connection with the enforcement of the ordinance. The local government may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed. The failure of a local government to comply with subsection ***(8)***~~[(7)]~~ of this section, and the failure of a lien to take precedence over previously filed liens as provided in subsection ***(10)***~~[(9)]~~ of this section, shall not limit or restrict any remedies that the local government has against the owner of the premises.

(12)~~[(11)]~~ The provisions of subsections ***(7)***~~[(6)]~~, ***(9)***~~[(8)]~~, and ***(11)***~~[(10)]~~ of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the premises.

(13)~~[(12)]~~ The provisions of this section shall not be enforced by a county government upon any premises situated in an unincorporated portion of the county that is assessed as agricultural land for tax purposes by the property valuation administrator.

(14) The right to request a hearing pursuant to this section shall be limited to a period of thirty (30) days after notice has been placed on the property and has been sent by certified mail return receipt requested.

➔Section 3. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 92.305 and 91.285, unless the context otherwise requires:

(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; ~~[or]~~

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin;~~[or]~~

(c) Has been tax delinquent for a period of at least three (3) years;

(d) Has had a methamphetamine contamination notice posted as provided in KRS 224.1-410 for a period of at least ninety (90) days and the owner has neither appealed the notice nor provided a certificate of decontamination during the ninety (90) days; or

(e)~~[(d)]~~ Is located within a development area established under KRS 65.7049, 65.7051, and 65.7053.

(2) For purposes of local taxation in cities of any class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of any class, county containing a city of the first class, or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city, county containing a city of the first class, or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

➔Section 4. KRS 426.205 is amended to read as follows:

(1) In an action otherwise properly brought to enforce a mortgage or lien against real property***, including a lien pursuant to KRS 65.8801 to 65.8839 or Section 2 of this Act, which has been*** determined by the court to be vacant and abandoned, a sale of the property shall be ordered expeditiously.

(2) Real property shall be considered vacant and abandoned, for purposes of this section only, if there has been no legal resident or other person legally entitled to occupy the property residing at the property for a period of forty-five (45) or more consecutive days and two (2) or more of the following or similar circumstances which would lead a reasonable person to believe that the property is vacant exist:

(a) Overgrown or dead vegetation;

(b) Accumulation of flyers, mail, or trash;

(c) Disconnected utilities;

(d) The absence of window coverings or furniture;

(e) Uncorrected hazardous conditions or vandalism; or

(f) Statements of neighbors, delivery persons, or government employees that the property is vacant.

Proof of vacancy and abandonment may be offered by affidavit filed at or after the time of filing of the complaint by the plaintiff or other lienholder.

(3) If the court makes a finding in the order of sale that the property is vacant and abandoned, the master commissioner shall sell the property within seventy (70) days of the order.

(4) The plaintiff or other mortgage or lienholder in whose favor the judgment and order of sale were entered shall apply for an order confirming the sale within twenty (20) days of the date of the sale and, unless there have been exceptions to the report of the master commissioner, the court shall act on such application not later than the next regularly scheduled civil motion or rule day.

(5) The master commissioner shall make conveyance of the property on the date the court confirms the sale, or as soon thereafter as all costs and fees have been paid by the foreclosing mortgagee or lienholder, or as soon as a third-party purchaser has paid the purchase price.

Signed by Governor March 22, 2019.

CHAPTER 53

(SB 29)

AN ACT relating to licensing fees for the sale of alcoholic beverages.

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

➔Section 1. KRS 243.075 is amended to read as follows:

(1) (a) A~~[qualified]~~ city ***with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census,*** or a county ***that does not contain***~~[containing]~~ a~~[qualified]~~ city ***with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census,*** that is wet through a local option election held under KRS Chapter 242 is authorized to impose a regulatory license fee ***not to exceed five percent (5%)*** upon the gross receipts of the sale of alcoholic beverages of each establishment located in the city or county licensed to sell alcoholic beverages.

(b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate that is reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.

(c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:

1. A credit against a regulatory license fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070; and

2. In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.

(2) (a) A city or county that is moist through a local option election held under KRS 242.1244 may by ordinance impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of

each establishment located in the city or county and licensed to sell alcoholic beverages by the drink for consumption on the premises.

(b) The regulatory license fee may be levied annually at a rate that is reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.

(c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.

(d) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.

(3) For any election held after July 15, 2014, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.

(4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:

(a) Policing;

(b) Regulation; and

(c) Administration;

as a result of the sale of alcoholic beverages within the city or county.

(5) (a) The Alcoholic Beverage Control Board shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of administrative regulations required by this subsection.

(b) After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.

(6) The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:

(a) Deposited into a segregated fund of the city or county;

(b) Spent only in accordance with the requirements of subsections (1) and (2) of this section; and

(c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.

(7) Any city or county found by a court to have violated the provisions of this section shall:

(a) Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after July 15, 2014;

(b) Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after July 15, 2014; and

(c) Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.

(8) Any party bringing suit against a city or county for an alleged violation of this section occurring after July 15, 2014, shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.

(9) ***(a) Any city that does not meet the population requirements of subsection (1) of this section, and any county that has a city exceeding the population requirements of subsection (1) of this section, that imposed a regulatory license fee pursuant to this section as of January 1, 2019, shall be deemed to meet the requirements for doing so set out in this section and may continue to impose the regulatory license fee previously established pursuant to this section.***

(b) Any city or county that is authorized to impose the regulatory license fee under subsection (1) of this section, or under paragraph (a) of this subsection, that imposed the regulatory license fee at a rate higher than five percent (5%) prior to the effective date of this Act, may continue to impose the regulatory license fee at a rate that exceeds five percent (5%). The rate shall continue to be calculated annually pursuant to the requirements of this section and shall not exceed the rate that was imposed by the city or county on January 1, 2019~~[(a) As used in this section, "qualified city" means a city on the registry maintained by the Department for Local Government under paragraph (b) of this subsection.~~

~~(b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the third or fourth class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site~~].

Signed by Governor March 22, 2019.

CHAPTER 54

(SB 55)

AN ACT relating to veterans at risk.

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

➔Section 1. KRS 39F.010 is amended to read as follows:

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

(1) "Developmental disability" has the same meaning as in KRS 387.510;

(2) "General rescue squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:

(a) Light duty rescue;

(b) Extrication of persons from vehicles;

(c) Water rescue and recovery operations not utilizing divers;

(d) Search for lost, trapped, or missing persons not utilizing dogs;

(e) Low angle rescue and recovery operations; and

(f) High angle rescue and recovery operations;

(3) "Impaired person" means a person who has a known or reported:

(a) Developmental disability, including but not limited to autism, or traumatic brain injury and whose disappearance poses a credible threat to the health or safety of the person, as determined by the Department of Kentucky State Police or a local law enforcement agency; or

(b) Physical, mental, or cognitive impairment or organic brain disorder, including but not limited to Alzheimer's disease, and whose disappearance poses a credible threat to the health or safety of the person, as determined by the Department of Kentucky State Police or a local law enforcement agency;

(4) "Reports and notification" means the reporting and notification of any search and rescue mission to the appropriate agency or person in the manner as specified by this chapter;

(5) "Rescue" means gaining access, rendering appropriate care, and transporting of a person or persons by whatever means, to a safe environment for appropriate care;

(6) "Rescue squad" means any organization which engages in the search for lost persons, rescue of persons, rescue of persons who are trapped or who are in need of rescue services, search for and recovery of drowned persons, or any other rescue related activity. "Rescue squad" shall not include the rescue of persons from a fire by a fire department, the extrication of persons from a vehicle or other activities which an emergency medical technician, emergency medical technician first responder, or paramedic is authorized to perform pursuant to applicable statutes and administrative regulations, if the activities are performed by a person for an ambulance service or in the role of a first responder. If these activities are performed other than as a first responder or in the role of an ambulance service and are involved in rescue operations, they come within the purview of activities of a rescue squad;

(7) "Search" means the process of looking for a person or persons whose location is not precisely known, and who may be in distress;

(8) "Search and rescue" ("SAR") means the process of looking for a lost, missing, or overdue person or persons who may be in distress, and rendering care with the use of appropriately trained and adequately equipped personnel;

(9) "Search and rescue mission" includes, but is not limited to, searching for a missing or lost person or persons, cave rescue, high angle or rough terrain rescue, urban search and rescue, dive rescue and recovery of drowning victims, inland water search, rescue, and recovery. "Search and rescue" may also include any mission permitted pursuant to this chapter. A "search and rescue mission" does not include mine rescue missions under the jurisdiction of the Department for Natural Resources pursuant to KRS Chapter 351;

(10) "Specialized rescue squad" means a rescue squad which performs one (1) or more of the following functions as the primary or sole mission of the organization:

(a) Cave rescue;

(b) Search utilizing dogs for lost, trapped or missing persons;

(c) Search for lost, trapped or missing persons, aircraft, or vehicles, utilizing aircraft, but does not apply to licensed air ambulances, active or reserve military organizations, the National Guard, or the Civil Air Patrol; and

(d) Water rescue and recovery operations utilizing divers;

(11) "Traumatic brain injury" has the same meaning as in KRS 211.470;~~[and]~~

(12) ***"Veteran at risk" means a veteran or an active-duty member of the Armed Forces, the National Guard, or a military reserve component of the United States who is known to have a physical or mental health condition, to include post-traumatic stress disorder (PTSD), that is related to his or her service; and***

(13) "Victim recovery" means the search for and the removal to the jurisdiction of the coroner of the remains of a person known or believed to be dead. If the person is found alive, it includes rescue of the person.

➔Section 2. KRS 39F.180 is amended to read as follows:

(1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:

(a) The local emergency management director; and

(b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.

(2) (a) Any search for a missing minor, as that term is defined in KRS 2.015, shall be immediately reported to the Department of Kentucky State Police by the person or organization to whom the missing minor is reported.

(b) A search for an impaired person as defined in KRS 39F.010(3)(a) shall immediately be reported as a Golden Alert D to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search.

(c) A search for an impaired person as defined in KRS 39F.010(3)(b) shall immediately be reported as a Golden Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.

(d) ***A search for a veteran at risk shall immediately be reported as a Green Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency management manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.***

(e) The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.

(3) Any search and rescue mission which has lasted four (4) hours without the subject being located shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.

(4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:

(a) The search and rescue mission is discontinued; or

(b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.

(5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.

(6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.

(7) There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

Signed by Governor March 22, 2019.

CHAPTER 55

(SB 121)

AN ACT relating to peace officer training.

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

➔Section 1. KRS 15.334 is amended to read as follows:

(1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:

(a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;

(b) The dynamics of domestic violence, pediatric abusive head trauma, as defined in KRS 620.020, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, pediatric abusive head trauma, as defined in KRS 620.020, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric abusive head trauma approved by the secretary of the Cabinet for Health and Family Services;

(c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome;

(d) Identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin;

(e) The characteristics and dynamics of human trafficking, state and federal laws relating to human trafficking, the investigation of cases involving human trafficking, including but not limited to screening for human trafficking, and resources for assistance to the victims of human trafficking; and

(f) Beginning January 1, 2017, the council shall require that a law enforcement basic training course include at least eight (8) hours of training relevant to sexual assault.

(2) (a) The council shall develop and approve mandatory ***in-service*** ~~[professional development]~~ training courses to be presented to all certified peace officers. ***The council may promulgate administrative regulations in accordance with KRS Chapter 13A setting forth the deadlines by which all certified peace officers shall attend the mandatory in-service training courses*** ~~[A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years]~~.

(b) ~~[Beginning January 1, 2011, the council shall require that one and one half (1.5) hours of professional development covering the recognition and prevention of pediatric abusive head trauma be included in the curriculum of all mandatory professional development training courses such that all officers shall receive this training at least once by December 31, 2013. The one and one half (1.5) hours required under this section shall be included in the current number of required continuing education hours.~~

~~(c) ~~]Beginning January 1, 2017, the council shall establish a forty (40) hour sexual assault investigation training course. ***After January 1, 2019, agencies shall maintain officers on staff who have completed the forty (40) hour sexual assault investigation training course in accordance with the following:***

1. Agencies with more than ten (10) but fewer than twenty-one (21) full-time officers shall maintain one (1) officer who has completed the forty (40) hour sexual assault investigation training course;

2. Agencies with twenty-one (21) or more but fewer than fifty-one (51) full-time officers shall maintain at least two (2) officers who have completed the forty (40) hour sexual assault investigation training course; and

3. Agencies with fifty-one (51) or more full-time officers shall maintain at least four (4) officers who have completed the sexual assault investigation course.

(c) An agency shall not make an officer directly responsible for the investigation or processing of sexual assault offenses unless that officer has completed the forty (40) hour sexual assault investigation training course.

(d) The council may, upon application by any agency, grant an exemption from the training requirements set forth in paragraph (b) of this subsection if that agency, by limitations arising from its scope of authority, does not conduct sexual assault investigations.

(e) Any agency failing to comply with paragraph (b) or (c) of this subsection shall, from the date the noncompliance commences, have one (1) year to reestablish the minimum number of trained officers required~~[By January 1, 2019, agencies shall have one (1) or more officers trained in this curriculum, as follows:~~

~~1. Agencies with five (5) or fewer officers shall have at least one (1) officer trained in sexual assault investigation;~~

~~2. Agencies with more than five (5) officers but fewer than thirty (30) officers shall have at least two (2) officers trained in sexual assault investigation; and~~

~~3. Agencies with thirty (30) or more officers shall have at least four (4) officers trained in sexual assault investigation]~~.

(3) The Justice and Public Safety Cabinet shall provide training on the subjects of domestic violence and abuse and may do so utilizing currently available technology. All certified peace officers shall be required to complete this training at least once every two (2) years.

(4) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and ***in-service***~~[professional development]~~ training courses.

~~[(5) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.]~~

➔Section 2. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those peace officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate***, unless that officer is actively enrolled and participating in a basic training course or, after having begun a basic training course, is on an approved extension of time due to injury or extenuating circumstances.***.

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed.

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer powers; or

2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she meets the requirements of KRS 15.400(1) or has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.391 and successfully completes in-service training as prescribed by the council, as follows:

1. If the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation, he or she shall complete:

a. The twenty-four (24) hour legal update Penal Code course;

b. The sixteen (16) hour legal update constitutional procedure course; and

c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; or

2. If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation, he or she shall complete:

a. The twenty-four (24) hour legal update Penal Code course;

b. The sixteen (16) hour legal update constitutional procedure course;

c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and

d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:

i. Basic officer skills;

ii. Orientation for new police chiefs; or

iii. Mandatory duties of the sheriff.

(c) A person returning from inactive to active certification after June 26, 2007, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:

1. Be a citizen of the United States;

2. Possess a valid license to operate a motor vehicle;

3. Be fingerprinted for a criminal background check;

4. Not have been convicted of any felony;

5. Not be prohibited by federal or state law from possessing a firearm;

6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;

8. Have been interviewed by the employing agency; and

9. Not have had certification as a peace officer permanently revoked in another state.

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.

(5) "Revoked status" means that the officer has no enforcement powers and his or her certification has been revoked by the Kentucky Law Enforcement Council for any one (1) of the following reasons:

(a) Failure to meet or maintain training requirements;

(b) Willful falsification of information to obtain or maintain certified status;

(c) Certification was the result of an administrative error;

(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(e) Prohibition by federal or state law from possessing a firearm; or

(f) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

(7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

Signed by Governor March 22, 2019.

CHAPTER 56

(SB 131)

AN ACT relating to DNA evidence.

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

➔Section 1. KRS 524.140 is amended to read as follows:

(1) As used in this section:

(a) ***"Biological evidence" means:***

1. The contents of a sexual assault evidence collection kit; or

2. Any item, or representative sample taken from an item, that contains blood, saliva, sperm, hair, tissue, bones, teeth, or other bodily fluids that was collected as part of a criminal investigation and that reasonably may be used to incriminate or exculpate any person from an offense or delinquent act;

(b) "Defendant" means a person charged with a:

1. Capital offense, Class A felony, Class B felony, or Class C felony; or

2. Class D felony under KRS Chapter 510; and

(c)~~[(b)]~~ "Following trial" means after:

1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or

2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.

(2) No item of ***biological*** evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order ***to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of investigation or prosecution, or*** to confirm the guilt or innocence of a criminal defendant***,*** shall be disposed of prior to ***a criminal*** trial~~[of a criminal defendant]~~ unless:

(a) The evidence has been in custody not less than fifty (50) years; or

(b) The evidence has been in custody not less than ten (10) years; and

1. The prosecution has determined that the defendant will not be tried for the criminal offense; and

2. The prosecution has made a motion, before the court in which the case would have been tried, to destroy the evidence.

(3) No item of ***biological*** evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of following the trial unless:

(a) The evidence, together with DNA evidence testing and analysis results, has been presented at the trial, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial;

(b) The evidence was not introduced at the trial, or if introduced at the trial was not the subject of DNA testing and analysis, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant;

(c) The trial resulted in the defendant being found not guilty or the charges were dismissed after jeopardy attached, whether or not the evidence was introduced at the trial or was subject to DNA testing and analysis or not, and the trial court ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; or

(d) The trial resulted in the dismissal of charges against the defendant, and the defendant may be subject to retrial, in which event the evidence shall be retained until after the retrial, which shall be considered a new trial for the purposes of this section.

(4) The burden of proof for a motion to destroy ***biological*** evidence that may be subject to DNA testing and analysis shall be upon the party making the motion, and the court may permit the destruction of the evidence under this section upon good cause shown favoring its destruction.

(5) It is recognized by the General Assembly that the DNA evidence laboratory testing and analysis procedure consumes and destroys a portion of the evidence or may destroy all of the evidence if the sample is small. The consuming and destruction of evidence during the laboratory analysis process shall not result in liability for its consumption or destruction if the following conditions are met:

(a) The Department of Kentucky State Police laboratory uses a method of testing and analysis which preserves as much of the biological material or other evidence tested and analyzed as is reasonably possible; or

(b) If the Department of Kentucky State Police laboratory knows or reasonably believes that the entire sample of evidence to be tested and analyzed that the laboratory, prior to the testing or analysis of the evidence, notifies in writing the court which ordered the testing and analysis and counsel for all parties:

1. That the entire sample of evidence may be destroyed by the testing and analysis;

2. The possibility that another laboratory may be able to perform the testing and analysis in a less destructive manner with at least equal results;

3. The name of the laboratory capable of performing the testing and analysis, the costs of testing and analysis, the advantages of sending the material to that other laboratory, and the amount of biological material or other evidence which might be saved by alternative testing and analysis; and

4. The Department of Kentucky State Police laboratory follows the directive of the court with regard to the testing and analysis; or

(c) If the Department of Kentucky State Police laboratory knows or reasonably believes that so much of the biological material or evidence may be consumed or destroyed in the testing and analysis that an insufficient sample will remain for independent testing and analysis that the laboratory follows the procedure specified in paragraph (b) of this subsection.

(6) Destruction of evidence in violation of this section shall be a violation of KRS 524.100.

(7) Subject to KRS 422.285(9), the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis.

Signed by Governor March 25, 2019.

CHAPTER 57

(SB 140)

AN ACT relating to the Commission on Fire Protection Personnel Standards and Education.

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

➔Section 1. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health and Family Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis ***A and*** B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190***, not to exceed five hundred thousand dollars ($500,000) per fiscal year***.~~[Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Health and Family Services for hepatitis B inoculations.]~~

(2) (a) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273.

(b) The commission shall allot ~~[eight thousand two hundred fifty dollars ($8,250), and beginning on July 1, 2018, the commission shall allot]~~eleven thousand dollars ($11,000) annually to each qualifying department.

(c) Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment.

(d) If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560.

(e) Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and any other matters or standards that will best effect the purposes of the volunteer fire department aid law. A qualifying department shall:

1. Include at least twelve (12) firefighters;

2. Have a chief;

3. Have at least one (1) operational fire apparatus or one (1) on order; and

4. Have at least fifty percent (50%) of its firefighters who have completed at least one-half (1/2) of one hundred fifty (150) training hours, or as otherwise established by the commission under KRS 95A.240(6), toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours, or as otherwise established by the commission by KRS 95A.240(6), within the second year.

These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations.

(f) No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made.

(g) A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as provided in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) ~~[There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments.]~~The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund

for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

(15) ~~[For fiscal year 2004-2005 and]~~Each fiscal year ~~[thereafter,]~~there ***shall be*** ~~[is]~~ allotted one million dollars ($1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.

(16) If funding is available from the fund established in KRS 95A.220, the Commission on Fire Protection Personnel Standards and Education may implement the following:

(a) A program to prepare emergency service personnel for handling potential man-made and non-man-made threats. The commission shall work in conjunction with the state fire marshal and other appropriate agencies and associations to identify and make maps of gas transmission and hazardous liquids pipelines in the state;

(b) A program to provide and maintain a mobile test facility in each training region established by the Commission on Fire Protection Personnel Standards and Education with equipment to administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a firefighter's ability to perform the physical requirements necessary to be an effective and safe firefighter;

(c) A program to provide defensive driving training tactics to firefighters. The commission shall purchase, instruct in the use of, and maintain mobile equipment in each of the training regions, and fund expenses related to equipment replacement;

(d) A program to annually evaluate equipment adequacy and to provide for annual physical examinations for instructors, adequate protective clothing and personal equipment to meet NFPA guidelines, and to establish procedures for replacing this equipment as needed;

(e) A program to establish a rotational expansion and replacement program for mobile fleet equipment currently used for training and recertification of fire departments;

(f) A program to expand and update current EMS, first responder, EMT, and paramedic training and certification instruction; and

(g) A program to purchase thermal vision devices to comply with the provisions of KRS 95A.400 to 95A.440.

Signed by Governor March 25, 2019.

CHAPTER 58

(SB 143)

AN ACT relating to state contracts and declaring an emergency.

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

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

(1) As used in this section:

(a) "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with:

1. A jurisdiction with which Kentucky can enjoy open trade; or

2. A person or entity doing business with a jurisdiction with which Kentucky can enjoy open trade; but

"boycott" does not mean an action taken for bona fide business or economic reasons or that is specifically required by federal or state law; and

(b) "Jurisdiction with which Kentucky can enjoy open trade" means:

1. Any World Trade Organization member; and

2. Any jurisdiction with which the United States has free trade or other agreements aimed at ensuring open and nondiscriminatory trade relations.

(2) A governmental body shall not enter into a contract under this chapter with a contractor unless the contract includes a representation by the contractor that the contractor is not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade. This subsection shall not apply to a:

(a) Contract with a value of less than one hundred thousand dollars ($100,000); or

(b) A contractor who:

1. Is an individual; or

2. Employs five (5) or fewer employees.

(3) A governmental body may terminate a contract with a contractor for:

(a) A false representation made under subsection (2) of this section; or

(b) Engaging in a boycott at the time of entering into the contract or during the duration of the contract.

(4) A request for proposal, invitation to bid, or other document issued by a governmental body with the intent of soliciting responses for the potential award of a contract shall include notice of the requirements under this section.

(5) The secretary shall promulgate administrative regulations under KRS Chapter 13A for the administration of this section.

➔Section 2. Whereas, the Governor issued Executive Order 2018-905 on November 15, 2018, directing the Finance and Administration Cabinet to begin implementing the provisions of this Act beginning January 1, 2019, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 25, 2019.

CHAPTER 59

(SB 148)

AN ACT relating to local government surplus property.

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

➔Section 1. KRS 45A.425 is amended to read as follows:

(1) A local public agency may sell or otherwise dispose of any personal property which is not needed or has become unsuitable for public use, or which would be suitable, consistent with the public interest, for some other use.

(2) A written determination as to need of suitability of any personal property of the local public agency shall be made; and such determination shall fully describe the personal property; its intended use at the time of acquisition; the reasons why it is in the public interest to dispose of the item; and the method of disposition to be used.

(3) Surplus or excess personal property as described in this section may be transferred, with or without compensation, to another governmental agency; or it may be sold at public auction or by sealed bids in accordance with KRS 45A.365.

(4) In the event that a local public agency receives no bids for surplus or excess personal property, either at public auction or by sealed bid, such property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the local public agency. In such instances, a written description of the property, the

method of disposal, and the amount of compensation, if any, shall be made. Any compensation resulting from the disposal of surplus or excess personal property shall be transferred to the general fund of the local public agency.

(5) A local board of education may dispose of its surplus technology in accordance with KRS 160.335.

(6) Notwithstanding subsections (1) to (4) of this section, a city, urban-county government, or consolidated local government that has adopted KRS 45A.345 to 45A.460 may dispose of surplus property using the procedures in KRS 82.083.

Signed by Governor March 25, 2019.

CHAPTER 60

(SB 155)

AN ACT relating to abuse of a corpse.

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

➔Section 1. KRS 525.120 is amended to read as follows:

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities. A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.

(2) Abuse of a corpse is a~~[Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a]~~ Class D felony.

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

Signed by Governor March 25, 2019.

CHAPTER 61

(SB 157)

AN ACT relating to drones.

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

➔Section 1. KRS 511.100 is amended to read as follows:

(1) As used in this section:

(a) "Key infrastructure assets" means:

1. Any critical node of a system used in the production or generation of electrical energy;
2. A petroleum refinery;
3. A rubber or hazardous chemical manufacturing facility;
4. A petroleum or hazardous chemical storage facility or terminal;
5. Natural gas processing, fractionation, stabilization, and compressor station facilities, as well as above-ground pipelines and related facilities;

6. Railroad yards and railroad tunnel portals;

7. A drinking water collection, treatment, or storage facility;

8. ***Grounds or property of a state prison, juvenile justice facility, jail, or other facility for the detention of persons charged with or convicted of crimes;***

9. A facility used for research, development, design, production, delivery, or maintenance of military weapons systems, subsystems, and components or parts to meet military requirements of the United States; or

10.~~[9.]~~A wireless communications facility, including the tower, antennae, support structures and all associated ground-based equipment, and a telecommunications central switching office; and

(b) "Unmanned aircraft system" means an aircraft that is operated without the possibility of direct human interaction from within or on the aircraft and includes everything that is on board or otherwise attached to the aircraft and all associated elements, including communication links and the components that control the small unmanned aircraft, that are required for the safe and efficient operation of the unmanned aircraft in the national airspace system.

(2) (a) A person commits the offense of trespass upon key infrastructure assets if he or she knowingly enters or remains unlawfully in or upon real property on which key infrastructure assets are located.

(b) A person commits the offense of trespass upon key infrastructure assets if he or she knowingly uses, or retains or authorizes a person to use, an unmanned aircraft system to fly above real property on which key infrastructure assets are located with the intent to cause harm or damage to or conduct surveillance of the key infrastructure asset without the prior consent of the owner, tenant, or lessee of the real property.

(3) Trespass upon key infrastructure assets is a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense.

(4) This section does not apply to:

(a) An unmanned aircraft system used by the federal government or by the Commonwealth, or by a person acting pursuant to a contract with the federal government or the Commonwealth;

(b) An unmanned aircraft system used by:

1. The owner of the real property or key infrastructure asset;

2. A person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right granted by the owner of the real property or key infrastructure asset; or

3. A third party who is retained or authorized by a person specified in subparagraph 1. or 2. of this paragraph;

(c) An unmanned aircraft system used by a law enforcement agency, emergency medical service agency, hazardous material response team, disaster management agency, or other emergency management agency for the purpose of incident command, area reconnaissance, personnel and equipment deployment monitoring, training, or a related purpose;

(d) Operation of an unmanned aircraft system by a person or entity for a commercial purpose in compliance with applicable Federal Aviation Administration authorization, regulations, or exemptions;

(e) A satellite orbiting the earth;

(f) An unmanned aircraft system used by an insurance company or a person acting on behalf of an insurance company for purposes of underwriting an insurance risk or investigating damage to insured property; or

(g) An unmanned aircraft system used strictly in accordance with an order of a court of competent jurisdiction.

➔Section 2. KRS 520.010 is amended to read as follows:

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

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;

(3) "Dangerous contraband" means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080***;***~~[,]~~ any controlled substances***;***~~[,]~~ any quantity of an alcoholic beverage***;***~~[, and]~~ any quantity of marijuana***;***~~[,]~~ cell phones not authorized under KRS 441.111***;***~~[,]~~ ***drones, unmanned aircraft, or other remotely controlled vehicles; and any payload carried by those vehicles,*** and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any building and its premises used for the confinement of a person:

(a) Charged with or convicted of an offense;

(b) Alleged or found to be delinquent;

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained when the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in this section and KRS 520.015, "penitentiary" includes any facility operated by the Department of Corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Department of Corrections.

Signed by Governor March 25, 2019.

CHAPTER 62

(HB 43)

AN ACT relating to charitable gaming.

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

➔Section 1. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week:

1. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period;

2. No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes; and

3. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo unless he or she is playing for noncash prizes and is accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b) 1. A licensed charitable organization may provide card-minding devices for use by players of bingo games.

2. If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times.

3. The department shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them;

(c) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(d) Charity game tickets may be sold, with prior approval of the department:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(e) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the department, only at the address of the location designated on the license to conduct charitable gaming. The department shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2) (a) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games.

(b) Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400).

(c) Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.

(d) Any unclaimed money or prize shall return to the charitable organization.

(e) No paper charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the department.

(f) No electronic pulltab device representation of a charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the construction standards set forth in an administrative regulation promulgated by the department. Electronic pulltab devices shall only be used for charitable gaming.

(g) No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3) (a) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win.

(b) All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle.

(c) Raffle tickets and tickets for charity fundraising raffle games approved by the department which are offered exclusively at charity fundraising events and special limited charity fundraising events are not required to be sold separately and may be sold at discounted package rates.

(d) Raffle tickets shall have a unique identifier on each ticket.

(e) Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket.

(f) All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:

(a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the department;

(b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100);

(c) The department may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed five thousand dollars ($5,000) for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian;

(d) The department may grant approval for a licensed charitable organization to play special limited charitable games at a charity fundraising event authorized under this section. The department shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with KRS 238.505(8);

(e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than eight (8) total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The department shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547; and

(f) Charity fundraising events may be held:

1. On or in the premises of a licensed charitable organization;

2. In a licensed charitable gaming facility, subject to restrictions contained in KRS 238.555(7); or

3. At an unlicensed facility which shall be subject to the requirements stipulated in KRS 238.555(3), and subject to the restrictions contained in KRS 238.547(2).~~[Charity fundraising events at an unlicensed facility shall be limited to:~~

~~a. No more than one (1) such event per week; and~~

~~b. No more than seven (7) such events per year, with no more than five (5) licensed charitable organizations conducting such events at an unlicensed facility per year.]~~

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

Became law without Govenor's signature March 27, 2019

CHAPTER 63

(HB 215)

AN ACT relating to unclaimed property.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

(1) The unclaimed property trust fund is established in the Treasury of the Commonwealth.

(2) The trust fund shall be administered by the Finance and Administration Cabinet and all money in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns.

(3) The trust fund shall consist of moneys received from appropriations, gifts, grants, federal funds, or moneys received on or after July 1, 2020.

(4) Interest earnings of the fund shall accrue to the trust fund, except to the extent that on July 1 of any fiscal year, if the trust fund has a balance which exceeds one hundred million dollars ($100,000,000), the interest earnings of the fund shall accrue to the general fund.

(5) Notwithstanding KRS 45.229 and except as provided by subsection (4) of this section, moneys deposited in the fund shall become a part of the fund and shall not lapse.

(6) Nothing in this section shall be interpreted to prohibit the General Assembly from appropriating funds to:

(a) The Department of the Treasury; or

(b) The unclaimed property trust fund.

Became law without Govenor's signature March 26, 2019

CHAPTER 64

(SB 230)

AN ACT relating to open records.

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

➔Section 1. KRS 61.872 is amended to read as follows:

(1) All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.

(2) Any person shall have the right to inspect public records. The official custodian may require***:***

(a) Written application, signed by the applicant and with his name printed legibly on the application, describing the records to be inspected. The ***written*** application shall be hand delivered, mailed, or sent via facsimile to the public agency***;***

(b) Facsimile transmission of the written application described in paragraph (a) of this subsection; or

(c) E-mail of the application described in paragraph (a) of this subsection.

(3) A person may inspect the public records:

(a) During the regular office hours of the public agency; or

(b) By receiving copies of the public records from the public agency through the mail. The public agency shall mail copies of the public records to a person whose residence or principal place of business is outside the county in which the public records are located after he precisely describes the public records which are readily available within the public agency. If the person requesting the public records requests that copies of the records be mailed, the official custodian shall mail the copies upon receipt of all fees and the cost of mailing.

(4) If the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.

(5) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection.

(6) If the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section shall be sustained by clear and convincing evidence.

Signed by Governor March 25, 2019.

CHAPTER 65

(SB 250)

AN ACT relating to public education.

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

➔Section 1. KRS 160.370 is amended to read as follows:

(1) The superintendent shall be the executive agent of the board that appoints him and shall meet with the board, except when his own tenure, salary, or the administration of his office is under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules, and regulations of the Kentucky Board of Education, and the regulations and policies of the district board of education are carried into effect. He may administer the oath required by the board of education to any teacher or other person. He shall be the professional adviser of the board in all matters. He shall prepare, under the direction of the board, all rules, regulations, bylaws, and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the discipline of pupils, and the management of business affairs. He shall be responsible for the hiring and dismissal of all personnel in the district.

(2) For a county school district in a county with a consolidated local government adopted under KRS Chapter 67C that adopts the provisions of the Kentucky Model Procurement Code, the board shall authorize the superintendent to approve purchases, in accordance with small purchase procedures adopted by the board, for any contract for which a determination is made that the aggregate amount of the contract does not exceed twenty thousand dollars ($20,000). The superintendent shall provide a quarterly report to the board on any purchases made under this subsection.

➔Section 2. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) Personnel decisions at the school level shall be as follows:

1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph (i)11. of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;

2. a. i. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process.

ii. Except as provided in subdivision b. of this subparagraph, the council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council.~~[No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal.]~~ The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;

b. An alternative principal selection process may be used by the school council as follows:

i. Prior to a meeting called to select a principal, all school council members shall receive informational materials regarding Kentucky open records and open meetings laws and sign a nondisclosure agreement forbidding the sharing of information shared and discussions held in the closed session;

ii. The superintendent shall convene the school council and move into closed session as provided in KRS 61.810(1)(f) to confidentially recommend a candidate;

iii. The council shall have the option to interview the recommended candidate while in closed session; and

iv. After any discussion, at the conclusion of the closed session, the council shall decide, in a public meeting by majority vote of the membership of the council, whether to accept or reject the recommended principal candidate;

c. If the recommended candidate is selected, and the recommended candidate accepts the offer, the name of the candidate shall be made public during the next meeting in open session;

d. i. If the recommended candidate is not accepted by the school council under subdivision b. of this subparagraph, then the process set forth in subdivision a. of this subparagraph shall apply.

ii. The confidentially recommended candidate's name and the discussions of the closed session shall remain confidential under KRS 61.810(1)(f), and any documents used or generated during the closed meeting shall not be subject to an open records request as provided in KRS 61.878(1)(i) and (j).

iii. A recommended candidate who believes a violation of this subdivision has occurred may file a written complaint with the Kentucky Board of Education.

iv. A school council member who is found to have disclosed confidential information regarding the proceeding of the closed session shall be subject to removal from the school council by the Kentucky Board of Education under subsection (9)(e) of this section;

3. ***No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal in that district.***

4. Personnel decisions made at the school level under the authority of subparagraphs 1. and 2. of this paragraph shall be binding on the superintendent who completes the hiring process;

5.~~[4.]~~ Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020;~~[and]~~

6.~~[5.]~~ Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(2)(e), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council; ***and***

7. Beginning with the effective date of this Act, notwithstanding the requirement that a principal be elected on a majority vote of the council in subparagraph 2. of this paragraph, if the school council is in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C, then the selection of a principal shall be subject to approval by the superintendent. If the superintendent does not approve the principal selected by the council, then the superintendent may select the principal;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(19);
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day related to improving classroom teaching and learning;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Adoption of an emergency plan as required in KRS 158.162;
10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
11. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data as shown on state and local student assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than October 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policies adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

(e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the state board determines a violation of the confidentiality requirements set forth in subsection (2)(h)2. of this section by a school council member has occurred, the state board shall remove the member from the school council, and the member shall be permanently prohibited from serving on any school council in the district.

(10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.

(11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

(12) Discretionary authority exercised under subsection (2)(h)2.b. of this section shall not violate provisions of any employer-employee bargained contract existing between the district and its employees.

➔Section 3. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.730 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; provided, however, that any board of education may grant a leave of absence for professional advancement or military leave for active duty service with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until***:***

(a) The teacher resigns or retires***;***

(b) ***The contract***~~[, or until it]~~ is terminated or suspended as provided in KRS 161.790 and 161.800***; or***

(c) ***For contracts entered into on or after July 1, 2019, the teacher begins employment in a district-level administrative position in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C. For purposes of this section and KRS 161.730 to 161.810, "district-level administrative position" means an administrative position in a local school district that has administrative level-duties and responsibilities that are not limited to one (1) school in the district***.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.730 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college or completion of a local district alternative certification training program.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employee, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, school psychologist, or school business administrator. The term "administrator" shall also include those assistant, associate, or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

➔Section 4. KRS 161.740 is amended to read as follows:

(1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:

(a) Hold a standard or college certificate as defined in KRS 161.720 or meet the certification standards for vocational education teachers established by the Education Professional Standards Board.

(b) When a currently employed teacher is reemployed by the superintendent after teaching four (4) consecutive years in the same district, or after teaching four (4) years which shall fall within a period not to exceed six (6) years in the same district, the year of present employment included, the superintendent shall issue a written continuing contract if the teacher assumes his duties, ***except as provided in subsection (4) of this section,*** and the superintendent shall notify the board of the action taken. A limited status employee on approved military leave shall be awarded service credit for each year of military service or each year of combined military and school service within a school year toward continuing contract status. If the leave time will qualify the teacher for continuing contract status, the local district may require the teacher to complete a one (1) year probationary period upon return. If required, the local district shall notify the teacher in writing within fourteen (14) days following receipt of the military leave request. Each day served in the General Assembly by a board of education employee during a regular or extraordinary session shall be included in the computation of a year as defined in KRS 161.720(2).

(c) When a teacher has attained continuing contract status in one district and becomes employed in another district, the teacher shall retain that status***, except as provided in subsection (4) of this section***. However, a district may require a one (1) year probationary period of service in that district before granting that status. For purposes of this subsection, the continuing contract of a teacher shall not be terminated when the teacher leaves employment, all provisions of KRS 161.720 to 161.810 to the contrary notwithstanding, and the continuing service contract shall be transferred to the next school

district, under conditions set forth in this section, for a period of up to seven (7) months from the time employment in the first school district has terminated. Nothing contained herein shall be construed to give a teacher a right to reemployment in the first school district during the seven (7) month period following termination.

(d) Service credit toward a continuing contract shall begin only when a teacher is properly certified as defined in KRS 161.720(6) or, in the case of a vocational education teacher, when the required certification standards established by the Education Professional Standards Board have been met.

(2) Vocational education teachers fulfilling the requirements in subsection (1) of this section as of July 15, 1982, shall be eligible for continuing service status.

(3) Whether employed under a limited contract or continuing service contract status, any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country, shall at the expiration of service be reemployed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of school, unless physically or mentally incapacitated according to medical notations on official discharge papers. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under a limited contract of one (1) year or less.

(4) Beginning July 1, 2019, a teacher employed in a district-level administrative position in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C shall not be issued a written continuing contract. However, if a teacher had a written continuing contract prior to becoming employed in a district-level administrative position and transfers to another position in the district that is not a district-level administrative position, then the teacher shall revert to continuing service contract status. If the teacher becomes employed in another district, the teacher shall revert to continuing service contract status subject to the provisions of subsection (2)(c) of this section regarding probation and the time period for transferring a continuing service contract to another school district.

➔Section 5. KRS 161.765 is amended to read as follows:

(1) A superintendent may demote an administrator ***by complying with the requirements of KRS 161.760 when the administrator:*** ~~[who]~~

(a) Has not completed three (3) years of administrative service, not including leave granted under KRS 161.770***; or***

(b) Is in a district-level administrative position in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C ~~[, by complying with the requirements of KRS 161.760]~~.

(2) ***Except for an administrator described in subsection (1)(b) of this section,*** an administrator who has completed three ***(3)*** years of administrative service, not including leave granted under KRS 161.770, cannot be demoted unless the following procedures have been complied with:

(a) The superintendent shall give written notice of the demotion to the board of education and to the administrator. If the administrator wishes to contest the demotion, he shall, within ten (10) days of receipt of the notice, file a written statement of his intent to contest with the superintendent. If the administrator does not make timely filing of his statement of intent to contest, the action shall be final.

(b) Upon receipt of the notice of intent to contest the demotion, a written statement of grounds for demotion, signed by the superintendent, shall be served on the administrator. The statement shall contain:

1. A specific and complete statement of grounds upon which the proposed demotion is based, including, where appropriate, dates, times, names, places, and circumstances;

2. The date, time, and place for a hearing, the date to be not less than twenty (20) nor more than thirty (30) days from the date of service of the statement of grounds for demotion upon the administrator.

(c) Upon receipt of the statement of grounds for demotion the administrator shall, within ten (10) days, file a written answer. Failure to file such answer, within the stated period, will relieve the board of any further obligation to hold a hearing and the action shall be final. The board shall issue subpoenas as are requested.

(d) The hearing on the demotion shall be public or private, at the discretion of the administrator and shall be limited to the matters set forth in the written statement of grounds for demotion. The board shall provide to the administrator a verbatim transcript of the hearing. The board of education shall hear the case, with the board chairman presiding. The board, upon hearing the evidence and argument presented, shall retire to private chambers to arrive at a decision. Counsel or representatives for either party in the hearing shall not be consulted by the board unless the corresponding counsel or representatives for the other party are present and unless a verbatim transcript of such consultation is made for the record.

(e) Within five (5) days from the close of the hearing, the board of education shall advise the parties of its decision and shall take official action in the case.

(f) Appeal from final board action may be taken in the same manner and under the same provisions as an appeal from tribunal action under KRS 161.790.

Signed by Governor March 25, 2019.

CHAPTER 66

(SB 256)

AN ACT relating to the Public Service Commission.

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

➔Section 1. KRS 278.020 is amended to read as follows:

(1) (a) No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except:

1. Retail electric suppliers for service connections to electric-consuming facilities located within its certified territory***;***~~[and]~~

2. Ordinary extensions of existing systems in the usual course of business; or

3.~~[2.]~~ A water district created under KRS Chapter 74 or a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project if the water district or water association is a Class A or B utility as defined in the uniform system of accounts established by the commission according to KRS 278.220 and:

a. The water line extension or improvement project will not cost more than five hundred thousand dollars ($500,000); or

b. The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring commission approval as required by KRS 278.300.

In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers;

until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

(b) Upon the filing of an application for a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement.

(c) The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth.

(d) The commission, when considering an application for a certificate to construct an electric transmission line, may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth.

(e) Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity. However, ordinary extensions of existing systems in the usual course of business not requiring such a certificate shall include:

(a) The replacement or upgrading of any existing electric transmission line; or

(b) The relocation of any existing electric transmission line to accommodate construction or expansion of a roadway or other transportation infrastructure; or

(c) An electric transmission line that is constructed solely to serve a single customer and that will pass over no property other than that owned by the customer to be served.

(3) Prior to granting a certificate of public convenience and necessity to construct facilities to provide the services set forth in KRS 278.010(3)(f), the commission shall require the applicant to provide a surety bond, or a reasonable guaranty that the applicant shall operate the facilities in a reasonable and reliable manner for a period of at least five (5) years. The surety bond or guaranty shall be in an amount sufficient to ensure the full and faithful performance by the applicant or its successors of the obligations and requirements of this chapter and of all applicable federal and state environmental requirements. However, no surety bond or guaranty shall be required for an applicant that is a water district or water association or for an applicant that the commission finds has sufficient assets to ensure the continuity of sewage service.

(4) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(5) No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(6) No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

(7) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing that ownership does not in fact confer control. Application for any approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in a form and contain the information as the commission requires. The commission shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make investigation and hold hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with modification and upon terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse, or prescribe

appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor, unless it is necessary, for good cause shown, to continue the application for up to sixty (60) additional days. The order continuing the application shall state fully the facts that make continuance necessary. In the absence of that action within that period of time, any proposed acquisition shall be deemed to be approved.

(8) Subsection (7) of this section shall not apply to any acquisition of control of any:

(a) Utility which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (7) of this section;

(b) Utility by an acquirer who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or

(c) Utility pursuant to the terms of any indebtedness of the utility, provided the issuance of indebtedness was approved by the commission.

(9) In a proceeding on an application filed pursuant to this section, any interested person, including a person over whose property the proposed transmission line will cross, may request intervention, and the commission shall, if requested, conduct a public hearing in the county in which the transmission line is proposed to be constructed, or, if the transmission line is proposed to be constructed in more than one county, in one of those counties. The commission shall issue its decision no later than ninety (90) days after the application is filed, unless the commission extends this period, for good cause, to one hundred twenty (120) days. The commission may utilize the provisions of KRS 278.255(3) if, in the exercise of its discretion, it deems it necessary to hire a competent, qualified and independent firm to assist it in reaching its decision. The issuance by the commission of a certificate that public convenience and necessity require the construction of an electric transmission line shall be deemed to be a determination by the commission that, as of the date of issuance, the construction of the line is a prudent investment.

(10) The commission shall not approve any application under subsection (6) or (7) of this section for the transfer of control of a utility described in KRS 278.010(3)(f) unless the commission finds, in addition to findings required by those subsections, that the person acquiring the utility has provided evidence of financial integrity to ensure the continuity of sewage service in the event that the acquirer cannot continue to provide service.

(11) The commission shall not accept for filing an application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services unless the applicant has provided written notice of the filing to the following:

(a) Kentucky Division of Water;

(b) Office of the Attorney General; and

(c) The county judge/executive, mayor, health department, planning and zoning commission, and public sewage service provider of each county and each city in which the utility provides utility service.

(12) The commission may grant any application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services upon terms and conditions as the commission deems necessary or appropriate, but not before holding a hearing on the application and no earlier than ninety (90) days from the date of the commission's acceptance of the application for filing, unless the commission finds it necessary for good cause to act upon the application earlier.

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

➔Section 2. KRS 278.183 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, effective January 1, 1993, a utility shall be entitled to the current recovery of its costs of complying with the Federal Clean Air Act as amended and those federal, state, or local environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal in accordance with the utility's compliance plan as designated in subsection (2) of this section. These costs shall include a reasonable return on construction and other capital expenditures and reasonable operating expenses for any plant, equipment, property, facility, or other action to

be used to comply with applicable environmental requirements set forth in this section. Operating expenses include all costs of operating and maintaining environmental facilities, income taxes, property taxes, other applicable taxes, and depreciation expenses as these expenses relate to compliance with the environmental requirements set forth in this section.

(2) Recovery of costs pursuant to subsection (1) of this section that are not already included in existing rates shall be by environmental surcharge to existing rates imposed as a positive or negative adjustment to customer bills in the second month following the month in which costs are incurred. Each utility, before initially imposing an environmental surcharge pursuant to this subsection, shall thirty (30) days in advance file a notice of intent to file said plan and subsequently submit to the commission a plan, including any application required by KRS 278.020(1), for complying with the applicable environmental requirements set forth in subsection (1) of this section. The plan shall include the utility's testimony concerning a reasonable return on compliance-related capital expenditures and a tariff addition containing the terms and conditions of a proposed surcharge as applied to individual rate classes. Within six (6) months of submittal, the commission shall conduct a hearing ***upon the request of a party, and shall, regardless of whether or not a hearing is requested*** ~~[to]~~:

(a) Consider and approve the plan and rate surcharge if the commission finds the plan and rate surcharge reasonable and cost-effective for compliance with the applicable environmental requirements set forth in subsection (1) of this section;

(b) Establish a reasonable return on compliance-related capital expenditures; and

(c) Approve the application of the surcharge.

(3) The amount of the monthly environmental surcharge shall be filed with the commission ten (10) days before it is scheduled to go into effect, along with supporting data to justify the amount of the surcharge which shall include data and information as may be required by the commission. At six (6) month intervals, the commission shall review past operations of the environmental surcharge of each utility, and after hearing, as ordered, shall, by temporary adjustment in the surcharge, disallow any surcharge amounts found not just and reasonable and reconcile past surcharges with actual costs recoverable pursuant to subsection (1) of this section. Every two (2) years the commission shall review and evaluate past operation of the surcharge, and after hearing, as ordered, shall disallow improper expenses, and to the extent appropriate, incorporate surcharge amounts found just and reasonable into the existing base rates of each utility.

(4) The commission may employ competent, qualified independent consultants to assist the commission in its review of the utility's plan of compliance as specified in subsection (2) of this section. The cost of any consultant shall be included in the surcharge approved by the commission.

(5) The commission shall retain all jurisdiction granted by this section and KRS 278.020 to review the environmental surcharge authorized by this section and any complaints as to the amount of any environmental surcharge or the incorporation of any environmental surcharge into the existing base rate of any utility.

➔Section 3. The following KRS sections are repealed:

278.510 Consolidation of telephone lines.

278.545 Countywide service by major telephone company required, when.

Signed by Governor March 25, 2019.

CHAPTER 67

(HB 273)

AN ACT relating to professional and volunteer firefighters programs, declaring an emergency, and making an appropriation therefor.

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

➔Section 1. KRS 95A.210 is amended to read as follows:

As used in KRS 95A.200 to 95A.300, unless the context otherwise requires:

(1) "Commission" means the Commission on Fire Protection Personnel Standards and Education established pursuant to KRS 95A.020***;*** ~~[.]~~

(2) ***"Established work schedule" means a work schedule adopted by or required of a local government setting a recurring pattern for time on and off duty for professional firefighters employed by the local government. An established work schedule includes but is not limited to a schedule of twenty-four (24) consecutive hours on duty, followed by forty-eight (48) consecutive hours off duty;***

(3) "Executive director" means the executive director of the Commission on Fire Protection Personnel Standards and Education;

(4) "Fund" means Firefighters Foundation Program Fund***;*** ~~[.]~~

(5) ~~[(3)]~~ "Local government" means any city, county, urban-county government, charter county government, unified local government, consolidated local government, or any combination thereof of the Commonwealth***;*** ~~[.]~~

(6) ~~[(4)]~~ "Professional firefighter" means any member of a paid municipal fire department organized under KRS Chapter 95, 67A, or 67C, a fire protection district organized under KRS Chapter 75, or a county fire department created pursuant to KRS Chapter 67***;*** ~~[.]~~

(7) "Program" means Alan "Chip" Terry Professional Development and Wellness Program for firefighters established in Section 2 of this Act;

(8) ~~[(5)]~~ "Scheduled overtime" means work by a professional firefighter in excess of forty (40) hours per week which regularly recurs as part of an established work schedule***; and*** ~~[.]~~

(9) ~~[(6)]~~ "Unscheduled overtime" means work by a professional firefighter in excess of forty (40) hours per week which does not regularly recur as part of an established work schedule~~[.~~

~~(7) "Established work schedule" means a work schedule adopted by or required of a local government setting a recurring pattern for time on and off duty for professional firefighters employed by the local government. An established work schedule includes but is not limited to a schedule of twenty four (24) consecutive hours on duty, followed by forty eight (48) consecutive hours off duty]~~.

➔SECTION 2. A NEW SECTION OF KRS 95A.200 TO 95A.300 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall establish the Alan "Chip" Terry Professional Development and Wellness Program for firefighters.

(2) The program shall:

(a) Use seminar-based peer support and counseling services designed to reduce negative mental and behavioral health outcomes; and

(b) Be offered to Kentucky professional and volunteer firefighters in Kentucky at least two (2) times each calendar year.

(3) On a limited basis, the program may be offered to professional and volunteer firefighters from states other than Kentucky upon application to and approval by the executive director. However, no Kentucky professional and volunteer firefighters may be denied admission to the program if professional and volunteer firefighters from another state are admitted to the program.

(4) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section. The administrative regulations shall address, at a minimum:

(a) The required qualifications and duties of any person used by the commission to implement or administer the program;

(b) The curriculum, programming, seminar type, and treatment modalities used in the program;

(c) The extent to which a participating firefighter's relatives or friends may participate in seminars;

(d) The standards by which professional and volunteer firefighters from other states may be accepted into the program by the executive director; and

(e) A protocol for establishing reciprocity for interagency assistance with other state, federal, and tribal professional and volunteer firefighters in administering the program.

(5) (a) Except as provided in paragraphs (b) and (c) of this subsection, communications, identifying data, and any reports made in the application for or in the course of a firefighter's participation in the program shall be confidential and privileged from disclosure in any civil or criminal proceeding and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power, regardless of who possesses them. The participating firefighter is the holder of the privilege.

(b) The commission may use anonymous data for research, statistical analysis, and educational purposes.

(c) Any communication making an actual threat of physical violence against a clearly identified or reasonably identifiable victim or an actual threat of some specific violent act may be revealed by the program in order to prevent the commission of any physical violence or violent act using the protocol established in KRS 202A.400.

(6) (a) There is hereby established in the State Treasury a restricted fund to be known as the professional and volunteer firefighters professional development and wellness program fund.

(b) The fund shall consist of moneys received from the Firefighters Foundation Program Fund established in KRS 95A.220, grants, gifts, state appropriations, and federal funds.

(c) The fund shall be administered by the commission.

(d) Amounts deposited in the fund shall be used only for administration of the program.

(e) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(f) Any interest earnings of the fund shall become a part of the fund and shall not lapse.

(g) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

➔Section 3. Whereas the overall health and well-being of professional and volunteer firefighters in the Commonwealth of Kentucky are critically important for public safety, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 25, 2019.

CHAPTER 68

(HB 281)

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

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

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

Barry Jackson

806 Britt Mill Road

Glasgow, KY 42141-7706 $1,200.00

Blue and Company, LLC

2712 Solution Center

Chicago, IL 60677-2007	$2,186.25
Bluegrass Safety Services	
106 Falcon Crest Drive	
Lebanon, KY 40033-9450	$1,100.00
CareWorx Corporation	
1002 Beaverbrook Road, Unit 2	
Kanata, ON K2K 1L1 Canada	$23,580.00
City of Taylorsville	
70 Taylorsville Road	
Taylorsville, KY 40071	$212,075.45
Dressman Benzinger LaVelle, PSC	
Attn: Accounts Receivable	
207 Thomas More Parkway	
Crestwood Hills, KY 41017	$2,172.40
Frankfort Plant Board	
PO Box 308	
Frankfort, KY 40602-0308	$26,039.77
George B. Stone Co., LLC	
PO Box 219	
Sharpsburg , KY 40374-0219	$31,849.00
Ice Miller LLP	
PO Box 68	
Indianapolis, IN 46206-0068	$32,289.77
Justified Drug Testing, Inc.	
243 Damron Mayo Road	
Grayson, KY 41143-7924	$180.00
Kings Daughters Medical Center	
2201 Lexington Avenue	
Ashland, KY 41101	$7,310.95
Louisville Jefferson County Metro Government	
611 West Jefferson Street, Suite A	
Louisville, KY 40202-2763	$40,446.70
Michael Baker International, Inc.	
PO Box 536408	
Pittsburgh, PA 15253-5906	$58,013.80
OnLINE FM, LLC	
PO Box 381467	
Germantown, TN 38183-1467	$40,306.50
Sweep All, Inc.	

PO Box 436501	
Louisville, KY 40253-6051	$24,582.71
The Council of State Governments	
PO Box 11910	
Lexington, KY 40578-1910	$2,383.94
TrueCore Behavioral Solutions, LLC	
6302 Benjamin Road, Suite 400	
Tampa, FL 33634-5116	$16,500.00
Veterinary Associates Stonefield	
203 Moser Road	
Louisville, KY 40223	$506.28
Weldquip, Inc.	
531 South Fourth Street	
Danville, KY 40422-2124	$35.98
Abell, Robert L	
PO Box 983	
Lexington, KY 40588-0983	$137.00
Abell, T Scott	
108 South Madison Avenue	
Louisville, KY 40243	$322.00
Ackerson & Yann, PLLC	
401 West Main Street, Suite 1200	
Louisville, KY 40202	$975.00
Alred, Russell D.	
PO Box 288	
Harlan, KY 40831	$161.00
Anderson MD, Gregory L	
1020 Majestic Drive	
Lexington, KY 40503	$350.00
Applegate MD, Keith T	
1755 Alysheba Way, Suite 201	
Lexington, KY 40509	$350.00
Armstrong, Bryan	
238 South Fifth Street, Suite 800	
Louisville, KY 40202	$298.00
Arnold and Miller, PLC	
401 West Main Street, Suite 303	
Lexington, KY 40507	$298.00
Arnzen, Mark G	

Arnzen, Storm & Turner, PSC	
600 Greenup Street	
Covington, KY 41011	$12,000.00
Ashlock Law Group, PLLC	
236 West Dixie Avenue	
Elizabethtown, KY 42701	$149.00
B Alan Simpson Attorney at Law, LLC	
PO Box 3480	
Bowling Green, KY 42102-3480	$185.00
Bailey Law Office	
PO Box 278	
Elizabethtown, KY 42702-0278	$298.00
Ballinger, James D	
3610 Lexington Road	
Louisville, KY 40207	$185.00
Baughman Harp, PLLC	
401 West Main Street, Suite 1	
Frankfort, KY 40601	$161.00
Bedford, Nina J	
C/O Walter Bedford Jr	
1801 William E Summers II Court	
Louisville, KY 40211	$161.00
Belzley, Gregory A	
PO Box 278	
Prospect, KY 40059	$1,189.00
Bent, Patty	
370 Lakepoint Drive	
Somerset, KY 42503	$149.00
Bentley, George & Sparks	
PO Box 1926	
London, KY 40743	$137.00
Bernheim and Dolinsky, PLLC	
414 Baxter Avenue, Suite 103	
Louisville, KY 40204	$2,706.00
Berthold Law Firm, PLLC	
PO Box 3508	
Charleston, WV 25335	$137.00
Blankenship Law Office, PLLC	
245 Main Street	

Paintsville, KY 41290	$298.00
Bogardus DMD, Amy J	
400 South 4th Street	
Danville, KY 40422	$350.00
Bolus Jr, James M	
600 West Main Street, Suite 500	
Louisville, KY 40202	$250.00
Brackney Law Office, PLLC	
709 Millpond Road	
Lexington, KY 40514	$750.00
Braden Humfleet & Devine, PLC	
110 East Third Street	
Lexington, KY 40508	$500.00
Bradley, Freed & Grumley, PSC	
PO Box 1655	
Paducah, KY 42002-1655	$4,257.27
Bradshaw, Donald	
C/O Clay Duncan	
PO Box 1196	
Paducah, KY 42002-1196	$137.00
Brownfield Dufour PLLC	
607 West Main Street, Suite 301	
Louisville, KY 40202	$805.00
Bubalo Law, PLC	
9300 Shelbyville Road, Suite 210	
Louisville, KY 40222	$471.00
Buck Esquire, Royce W	
PO Box 721	
Mayfield, KY 42066	$221.00
Burg Simpson Eldredge Hersh & Jardine, PC	
312 Walnut Street, Suite 2090	
Cincinnati, OH 45202	$149.00
Burns EMT, Robert	
11227 Hammond Drive	
Louisville, KY 40241	$350.00
Carey, J Matthew	
401 West Main Street, Suite 2000	
Louisville, KY 40202	$1,651.88
Carroll & Turner, PSC	

56 Court Street	
Monticello, KY 42633	$149.00
Chaung, Felix H	
1600 Medical Center Drive	
Huntington, WV 25701	$350.00
Cheadle MD, William G	
401 E. Chestnut Street, Suite 710	
Louisville, KY 40202	$350.00
Christopher Haden, PSC	
1041 Goss Avenue, Suite 4	
Louisville, KY 40217	$173.00
Clark, Michael David	
3165 Riggs Avenue	
Erlanger, KY 41018-1460	$149.00
Clary, Charles	
C/O Miller Edwards Rambicure PLLC	
300 East Main Street, Suite 360	
Lexington, KY 40507	$149.00
Cole & Moore, PSC	
PO Box 10240	
Bowling Green, KY 42102-7240	$137.00
Combs, E Seth	
PO Box 1590	
Hindman, KY 41822-1590	$4,000.00
Conway & Keown, PSC	
PO Box 25	
Hartford, KY 42347-0025	$901.00
Cook, Brian	
1041 Goss Avenue	
Louisville, KY 40217	$418.00
Cooper & Friedman, PLLC	
1448 Gardiner Lane, Suite 301	
Louisville, KY 40213	$185.00
Copeland & Romines Law Office, PLLC	
PO Drawer 1580	
Corbin, KY 40702	$137.00
Cowan Law Office, PLC	
2401 Regency Road, Suite 300	
Lexington, KY 40503	$334.00

Craig, Nathan	
1308 Morris Circle	
Hopkinsville, KY 42240	$6,000.00
Crocker Law Firm, PLLC	
PO Box 187	
Bowling Green, KY 42102-0187	$161.00
Crouse, Charles E	
Attn: Tamara Brandenburg	
222 Medical Circle	
Morehead, KY 40351	$350.00
Curtis, Michael J	
Curtis Legal Services, PSC	
PO Box 1455	
Ashland, KY 41105-1455	$447.00
DeMarcus Law, PLLC	
3251 Royster Road	
Lexington, KY 40516	$173.00
Dolt, Thompson, Shepherd & Conway, PSC	
13800 Lake Point Circle	
Louisville, KY 40223	$1,151.00
Douglas Law Office, PLLC	
PO Box 158	
Pineville, KY 40977	$802.50
Dreyfuss, Terry	
PO Box 421	
Franklin, KY 42135	$173.00
Durrett & Kersting, PLLC	
7508 New LaGrange Road, Suite 3	
Louisville, KY 40222	$1,525.00
English Lucas Priest & Owsley	
PO Box 770	
Bowling Green, KY 42102	$185.00
Everage, Mary Joe	
PO Box 1455	
Hindman, KY 41822	$137.00
Farooqui MD, Jamil	
315 Eagle Drive	
Nicholasville, KY 40356	$350.00
Faulkner, Wes	

125 South Seventh Street	
Louisville, KY 40202	$149.00
Faulkner, Wes	
125 South Seventh Street	
Louisville, KY 40202	$937.50
Finn & Yeoman	
231 South Fifth Street, Third Floor	
Louisville, KY 40202	$1,802.00
Flynt Law Offices, PSC	
PO Box 760	
Salyersville, KY 41465-0760	$305.00
Folk, Michael	
810 Dalewood Drive	
Vista Hills, KY 41017	$500.00
Foreman Watson Holtrey, LLP	
530 Frederica Street	
Owensboro, KY 42301	$8,757.50
Franklin, Charles G	
PO Box 547	
Madisonville, KY 42431-0011	$6,000.00
Frederick Law Firm	
161 Chenoweth Lane	
Louisville, KY 40207	$668.00
Freeda Louthan, Attorney at Law	
1456 Shale Trail Loop	
The Villages, FL 32163	$209.00
Freeman, Childers & Howard	
PO Box 1546	
Corbin, KY 40702	$185.00
Gallagher, Gams, Tallan, Barnes & Littrell, LLP	
471 East Broad Street, 19th Floor	
Columbus, OH 43215	$269.00
Gallian, Brenda	
4492 County Road 52	
Ironton, OH 45638	$137.00
Garmer & Prather, PLLC	
141 North Broadway	
Lexington, KY 40507	$699.00
Garmon & Ramsey, PLLC	

Attn: Matt Garmon	
15 Huffaker Street	
Monticello, KY 42633	$161.00
Garmon & Ramsey, PLLC	
Attn: Rhett Ramsey	
15 Huffaker Street	
Monticello, KY 42633	$161.00
Garner, Lisa	
2610 Eastland Drive	
Owensboro, KY 42303	$185.00
Gary C Johnson, PSC	
PO Box 231	
Pikeville, KY 41502-0231	$846.00
Gary C Johnson, PSC	
PO Box 231	
Pikeville, KY 41502-0231	$7,500.00
Gary F Franke Co, LPA	
120 East Fourth Street, Suite 1040	
Cincinnati, OH 45202-4007	$209.00
Gatlin Voelker, PLLC	
2500 Chamber Center Drive, Suite 203	
Fort Mitchell, KY 41017	$185.00
George, Tyler	
PO Box 1926	
London, KY 40743	$370.00
George, Tyler	
PO Box 1926	
London, KY 40743	$1,287.08
Getty, Richard A	
The Getty Law Group, PLLC	
250 West Main Street, Suite 1900	
Lexington, KY 40507	$197.00
Glenn Martin Hammond Law Office	
PO Box 1109	
Pikeville, KY 41502	$836.00
Goeing Goeing and McQuinn, PLLC	
300 East Main Street, Suite 150	
Lexington, KY 40507	$298.00
Goldberg Simpson LLC	

9301 Dayflower Street	
Prospect, KY 40059	$173.00
Goldberg Simpson LLC	
9301 Dayflower Street	
Prospect, KY 40059	$1,000.00
Golden Law Office, PLLC	
771 Corporate Drive, Suite 750	
Lexington, KY 40503	$2,924.00
Gray Law PLLC	
1211 Crosstimbers Drive	
Louisville, KY 40245	$149.00
Grundy, Charlotte	
C/O Harville Law Offices	
2527 Nelson Miller Parkway, Suite 102	
Louisville, KY 40223	$406.00
Gwin Steinmetz & Baird, PLLC	
401 West Main Street, Suite 1000	
Louisville, KY 40202	$2,000.00
Haden, Sheldon	
9703 Moorfield Circle	
Louisville, KY 40241	$16,682.91
Haggard Law Firm	
PO Box 4037	
Hopkinsville, KY 42241	$161.00
Hare Wynn Newell & Newton	
200 West Vine Street, Suite 700	
Lexington, KY 40507	$1,422.00
Harper Law Co, PLLC	
101 Alton Road	
Shelbyville, KY 40065	$137.00
Harper Law Co, PLLC	
101 Alton Road	
Shelbyville, KY 40065	$300.00
Harreld, Kevin	
14706 Landis Lakes Drive	
Louisville, KY 40245	$350.00
Hart, Jason Apollo	
Apollo Law, PLLC	
101 Saint Clair Street, 1st Floor	

Frankfort, KY 40601	$644.00
Haverstock, Bell & Pitman, LLP	
PO Box 1075	
Murray, KY 42071	$149.00
Helton, Ephraim	
PO Box 137	
Danville, KY 40423	$411.00
Hensley Law Office, PSC	
105 Thompson Road, Suite A	
Russell, KY 41169	$137.00
Herren & Adams, LLP	
148 North Broadway	
Lexington, KY 40507	$733.00
Hessig & Pohl, PLLC	
922 Franklin Street	
Louisville, KY 40206	$644.00
Hite Law Group, PLLC	
602 Bloomfield Road	
Bardstown, KY 40004	$137.00
Hodge, Stephanie	
140 West Blue Jay Road	
Louisville, KY 40229	$149.00
Hogg, Stephen L	
PO Box 330	
Pikeville, KY 41502-0330	$14,986.40
Holloway, Wendell	
PO Box 1191	
Madisonville, KY 42431-1191	$447.00
Hopfensperger, Heidi	
150 West Main Street	
Hazard, KY 41701	$197.00
Hubbard, Emily A	
The Lawrence Firm, PSC	
606 Philadelphia Street	
Covington, KY 41011	$2,000.00
Hughes and Coleman, PLLC	
211 East New Circle Road	
Lexington, KY 40505	$4,288.00
Hughes, Honorable Richard A	

PO Box 1139	
Ashland, KY 41105	$149.00
Humbert, Mark A	
810 Sycamore Street, Fourth Floor	
Cincinnati, OH 45202	$149.00
J Gregory Joyner, PLLC	
Joyner Law Offices	
2300 Hurstbourne Village, Suite 700	
Louisville, KY 40299	$149.00
James Davis & Associates	
PO Box 390	
Mount Sterling, KY 40353	$149.00
James M Bolus Jr, PSC	
600 West Main Street, Suite 500	
Louisville, KY 40202	$793.00
Johnson, C Darlene	
257 Combs Road, Suite 1	
Hazard, KY 41701	$161.00
Kehdy MD, Farid	
401 E. Chestnut Street, Suite 710	
Louisville, KY 40202	$350.00
Keith, Karen	
McMasters Keith & Butler, Inc.	
730 West Main Street, Suite 500	
Louisville, KY 40202	$525.00
Kemper, Aaron	
1009 South Fourth Street	
Louisville, KY 40203	$149.00
Kerrick Bachert, PSC	
1025 State Street	
Bowling Green, KY 42101	$5,545.78
Kessinger Law Group, PLLC	
120 Kentucky Avenue, Suite 220	
Lexington, KY 40502	$334.00
King-Davis, Laurel	
1925 South Main Street	
Hopkinsville, KY 42240	$221.00
Kinkead & Stilz, PLLC	
301 East Main Street, Suite 800	

Lexington, KY 40507-1520	$7,372.41
Kirby, Glenn David	
7228 Third Street Road	
Louisville, KY 40214	$161.00
Kirk Law Firm, PLLC	
PO Box 339	
Paintsville, KY 41240	$728.00
KMSF, Inc	
Special Services Department	
PO Box 587	
Lexington, KY 40586	$350.00
Kristen Daniel LLC	
917 Lily Creek Road	
Louisville, KY 40243	$322.00
Lackey, John F	
134 West Main Street	
Richmond, KY 40475-1444	$149.00
Law Firm of Garcia & Artigliere	
444 East Main Street, Suite 108	
Lexington, KY 40507	$3,333.00
Law Firm of Kamp T Purdy PLLC	
2201 Regency Road, Suite 703	
Lexington, KY 40503	$310.00
Law Office of Colleen Hegge	
11581 Big Bone Road	
Union, KY 41091	$161.00
Law Office of David Yates, PLLC	
600 West Main Street, Suite 500	
Louisville, KY 40202	$365.00
Law Office of Kevin R Smith	
303 South Main Street	
London, KY 40743	$221.00
Law Office of Peter P Cohron	
350 Tartan Drive	
Henderson, KY 42420	$2,000.00
Law Office of Richard Hay	
PO Box 1124	
Somerset, KY 42502	$769.00
Law Offices of Ray S Jones II, PSC	

PO Box 3850	
Pikeville, KY 41502-3850	$269.00
Lawless, Luke R	
205 East Broadway	
Campbellsville, KY 42718	$137.00
Lee Law Offices	
PO Box 308	
Owensboro, KY 42302-0308	$980.00
Logsdon, Gary S	
PO Box 382	
Brownsville, KY 42210	$4,124.00
Lohman, Sean P	
730 West Market Street, Fourth Floor	
Louisville, KY 40202	$149.00
Louder & McGill, PLLC	
PO Box 900	
Bowling Green, KY 42102	$173.00
Lynch, Boyd L	
2128 Rothbury Road	
Lexington, KY 40515	$149.00
Manning, Ethan	
222 East Witherspoon Street, Suite 401	
Louisville, KY 40202	$197.00
Masters, Mullins & Arrington	
1012 South Fourth Street	
Louisville, KY 40203	$274.00
Mattingly & Nally-Martin PLLC	
PO Box 678	
Lebanon, KY 40033	$507.00
McBrayer, McGinnis, Leslie & Kirkland, PLLC	
201 East Main Street, Suite 900	
Lexington, KY 40507	$358.00
McBrayer, McGinnis, Leslie & Kirkland, PLLC	
201 East Main Street, Suite 900	
Lexington, KY 40507	$6,542.00
McCoy, Hiestand & Smith, PLC	
108 Browns Lane	
Louisville, KY 40207	$447.00
McDaniels, Carolyn E	

599 Dunbarton Avenue
Bowling Green, KY 42104 $274.00

Metten, Stephen
4305 Saratoga Woods Drive
Louisville, KY 40299 $173.00

Miller & Faulkner
325 West Main Street, Suite 2104
Louisville, KY 40202 $173.00

Miller Kent Carter and Michael Lucas, PLLC
PO Box 852
Pikeville, KY 41502-0852 $3,537.00

Moore & Moore, PLLC
141 Prosperous Place, Suite 22B
Lexington, KY 40509 $846.00

Moore Law Office, PLLC
126 South Main Street
Versailles, KY 40383 $1,086.00

Moore, Charles E
Moore and Malone
PO Box 549
Owensboro, KY 42303-0549 $334.00

Morgan & Morgan
360 East Eighth Avenue, Suite 305
Bowling Green, KY 42101 $728.00

Morgan & Morgan
333 West Vine Street, Suite 1200
Lexington, KY 40507 $2,722.00

Morgan & Morgan
Attn: Nikki Dix
333 West Vine Street, Suite 1200
Lexington, KY 40507 $310.00

Morgan & Morgan Kentucky, PLLC
Attn: David V Dufour Jr
420 West Liberty Street, Suite 260
Louisville, KY 40202 $1,600.00

Morgan-White, Honorable Annette
Morgan & White Law Office
2281 South Highway 421
Manchester, KY 40962 $632.00

Morris & Player PLLC
1211 Herr Lane, Suite 205
Louisville, KY 40222 $591.00

Morris MD, Peter
L543 Kentucky Clinic
740 South Limestone
Lexington, KY 40536 $350.00

Morse MD, Eric T
Baptist Health Occupational Medicine
1051 Newtown Pike, Suite 130
Lexington, KY 40511 $350.00

Murphy & Associates PLC
513 South Second Street
Louisville, KY 40202 $173.00

Napier Gault Schupach & Stevens, PLC
Attn: Clay M Stevens
730 West Main Street, Suite 400
Louisville, KY 40202 $5,700.00

Napier Gault Schupach & Stevens, PLC
Attn: Kristen H. Fowler
730 West Main Street, Suite 400
Louisville, KY 40202 $4,250.00

Nemes Eade PLLC
PO Box 43757
Louisville, KY 40243 $161.00

Newcomb III, Oliver T
221 Kyle Lane
Morehead, KY 40351 $300.00

Noble, Justin
461 Main Street
Hazard, KY 41701 $2,000.00

Noelker, Honorable William
PO Box 511
Danville, KY 40423-0511 $310.00

Nunnery, B D
PO Box 510
Prestonsburg, KY 41653 $137.00

Nutt Law Office
462 South Fourth Street, Suite 1750

Louisville, KY 40202	$149.00
O'Brien Batten & Kirtley, PLLC	
921 Beasley Street, Suite 150	
Lexington, KY 40509	$1,392.00
Omuruyi, Osawaru	
PO Box 37188	
Louisville, KY 40233	$350.00
Osborne and O'Bryan	
PO Box 479	
Paintsville, KY 41240	$149.00
Pack, Michael	
PO Box 330	
Pikeville, KY 41502	$173.00
Patrick Law Firm	
415 West Main Street, Suite 8	
Frankfort, KY 40601	$4,000.00
Patterson, Jud	
PO Box 825	
Richmond, KY 40476	$221.00
Paul A Casi II, PSC	
440 South Seventh Street, Suite 100	
Louisville, KY 40203	$1,201.00
Paul L Whalen, Attorney	
113 Ridgeway Avenue	
Fort Thomas, KY 41075-1333	$250.00
Pauley Curry, PLLC	
PO Box 2786	
Charleston, WV 25330-2786	$274.00
Pearl, Nick L	
104 West Dixie Avenue	
Elizabethtown, KY 42701	$149.00
Phillips Parker Orberson & Arnett, PLC	
716 West Main Street, Suite 300	
Louisville, KY 40202	$1,050.00
Powers, Rita	
C/O David V Dufour Jr	
420 West Liberty Street, Suite 260	
Louisville, KY 40202	$233.00
Pugh & Roach, Attorneys At Law, PLLC	

28 West Fifth Street	
Covington, KY 41011	$173.00
Ray J Stoess, PSC	
600 West Main Street, Suite 100	
Louisville, KY 40202	$298.00
Raymond S Bogucki, PSC	
PO Box 277	
Maysville, KY 41056	$310.00
Richard Breen Law Offices, PSC	
2950 Breckinridge Lane, Suite 3	
Louisville, KY 40220	$209.00
Richard Shuster, Attorney	
239 South Fifth Street, Suite 500	
Louisville, KY 40202	$149.00
Robbie Duddey & O'Connor, Acciani & Levy	
600 Vine Street, Suite 1600	
Cincinnati, OH 45202	$161.00
Romines, Weis & Young, PSC	
600 West Main Street, Suite 100	
Louisville, KY 40202	$137.00
Rubel MD, Lance E	
2012 Wilderness Court	
Evansville, IN 47712	$350.00
Russell & Ireland Law Group, LLC	
726 Greenup Street	
Covington, KY 41011	$149.00
Sampson, Jeffrey T	
450 South Third Street, Fourth Floor	
Louisville, KY 40202	$1,692.00
Schacter, Hendy & Johnson, PSC	
909 Wright's Summit Parkway, Suite 210	
Fort Wright, KY 41011	$161.00
Schiller, Richard P	
Schiller Barnes Maloney, PLLC	
401 West Main Street, Suite 1600	
Louisville, KY 40202	$7,028.00
Segeleon, Jason R	
125 South Seventh Street	
Louisville, KY 40202	$149.00

Sexton, Jeffrey A	
325 West Main Street, Suite 150	
Louisville, KY 40202	$507.00
Shackelford Law Office, PLLC	
155 East Main Street, Suite 101	
Lexington, KY 40507	$1,000.00
Siebert & Johnson, PLLC	
2741 Brownsboro Road	
Louisville, KY 40206	$137.00
Sitlinger & Theiler	
320 Whittington Parkway, Suite 304	
Louisville, KY 40222	$173.00
Slechter Law Firm, PLLC	
2507 Bush Ridge Drive, Suite A	
Louisville, KY 40245	$709.00
Smith Esquire, Ty	
Morgan & Morgan	
420 West Liberty Street, Suite 260	
Louisville, KY 40202	$245.00
Smith, Roger Dale	
Roper Law Firm	
PO Box 7130	
Hazard, KY 41702	$149.00
Souza, Joseph	
2631 Bushwood Road	
Anchorage, KY 40223	$750.00
Spalding, John K	
908 Minoma Avenue	
Louisville, KY 40217	$185.00
Spencer, Kelly P	
Spencer Law Group	
2224 Regency Road	
Lexington, KY 40503	$711.00
Stein Whatley Attorneys, PLLC	
2525 Bardstown Road, Suite 101	
Louisville, KY 40205	$459.00
Stoll Keenon Ogden, PLLC	
300 West Vine Street, Suite 2100	
Lexington, KY 40507-1801	$454.20

Stoll Keenon Ogden, PLLC	
Attn: Greg King	
500 West Jefferson Street, Suite 2000	
Louisville, KY 40202	$3,072.17
Stratton, David	
PO Box 1530	
Pikeville, KY 41502	$4,666.68
Stratton, Morgan Lynn	
C/O William R Noelker	
706 Cane Run Street	
Harrodsburg, KY 40330	$149.00
Sutkamp MD, Michael	
400 South 1st Street	
Louisville, KY 40202	$350.00
Sword, Larry F	
Sword & Broyles	
276 Horseshoe Drive	
Somerset, KY 42501	$149.00
Symons, Juliette B	
201 West Short Street, Suite 300	
Lexington, KY 40507	$4,000.00
Taylor, Marsha	
490 Cave Spring Road	
McKee, KY 40447	$2,000.00
The Casazza Law Firm	
7705 US Highway 42	
Florence, KY 41094	$185.00
The Chafin Law Firm	
PO Box 1799	
Williamson, WV 25661	$173.00
The Gilliam Firm	
219 East Fourth Street	
London, KY 40741	$161.00
The Greene Law Firm, PLLC	
6004 Brownsboro Park Boulevard, Suite E	
Louisville, KY 40207	$137.00
The Jaeger Firm, PLLC	
23 Erlanger Road	
Erlanger, KY 41018	$149.00

The Joe C Savage Law Firm	
501 Darby Creek Road, Suite 53	
Lexington, KY 40509	$1,879.00
The Law Office of Grant M Axon	
PO Box 1373	
Warsaw, KY 41095	$497.00
The Law Office of Levi Turner, LLC	
1319 Cumberland Avenue	
Middlesboro, KY 40965	$209.00
The Law Office of Matthew L Collins, PLLC	
135 South Main Street	
Lawrenceburg, KY 40342	$161.00
The Lawrence Firm, PSC	
606 Philadelphia Street	
Covington, KY 41011	$495.00
Theodore Mussler, Attorney	
1941 Bishop Lane, Suite 705	
Louisville, KY 40218	$161.00
Thomas Law Offices	
9418 Norton Commons Boulevard, Suite 200	
Prospect, KY 40059	$1,761.00
Tilford Dobbins & Schmidt, PLLC	
C/O Kathleen M W Schoen, Esquire	
401 West Main Street, Suite 1400	
Louisville, KY 40202	$850.00
Tillman Law Office, PLLC	
Attn: Sean Tillman	
501 Baxter Avenue	
Louisville, KY 40204-1145	$298.00
Trammell Piazza Law Firm	
418 North State Line Avenue	
Texarkana, AR 71854	$591.00
Travis Herbert & Stempien, PLLC	
11507 Main Street	
Louisville, KY 40243	$2,000.00
Travis Pruitt and Powers Law Office	
PO Drawer 30	
Somerset, KY 42502-0030	$137.00
Trimble Law, PLLC	

PO Box 1157
Corbin, KY 40702 $1,260.00

Troutt MD, Terry L
136 Professional Avenue, #8
Winchester, KY 40391 $350.00

Tubbs, Lexi
1237 Arlington Drive
Paris, KY 40361 $310.00

Unrue, James
2121 Argilite Road
Flatwoods, KY 41139 $137.00

Vantrease, Ryan
600 West Main Street, Suite 500
Louisville, KY 40202 $149.00

Varellas, D Todd
249 West Short Street, Suite 201
Lexington, KY 40507 $257.00

Varney, Cecil
36 Second Street
Lovey, KY 41231-7800 $5,000.00

Vines, Brian M
Hare Wynn Newell & Newton
200 West Vine Street, Suite 700
Lexington, KY 40507 $209.00

Waespe MD, David M
Kentucky Orthopedic Association
1138 Lexington Road, Suite 110
Georgetown, KY 40324 $350.00

Wallace Boggs PLLC
300 Buttermilk Pike, Suite 100
Fort Mitchell, KY 41017 $173.00

Walter, Richard L
Boehl Stopher & Graves, LLP
410 Broadway
Paducah, KY 42001 $12,493.43

Warren, R Dale
60 West Main Street, Suite 300
Louisville, KY 40202 $137.00

Whiteford, Taylor & Preston

161 North Eagle Creek Drive, Suite 210
Lexington, KY 40509 $716.00

Wilder, R Scott
Gambrel & Wilder Law Offices
1222 1/2 North Main Street, Suite 2
London, KY 40741 $2,000.00

Wilkes & McHugh, PA
PO Box 1747
Lexington, KY 40588-1747 $16,021.00

William D Nefzger, PLLC
1041 Goss Avenue
Louisville, KY 40217 $579.00

William F McMurry & Associates
624 West Main Street, Suite 600
Louisville, KY 40202 $298.00

Wilt & Klausing, PLLC
13113 Eastpoint Park Boulevard, Suite A
Louisville, KY 40223 $1,331.00

Wolff, Otto Daniel
719 Philadelphia Street
Covington, KY 41011 $2,000.00

Wren, James H
PO Box 6
Williamsburg, KY 40769 $173.00

Wyatt, Lenny
577 Murray Cemetery Road
East Bernstadt, KY 40729 $149.00

Young, Diane
PO Box 82
Richmond, KY 40476 $293.00

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

Check #GA 18127010 dated May 24, 2013
Adams, Billy G
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $466.52

Check #B1 11043512 dated March 9, 2009
Aramark

Attn: Edward Kennedy
1101 Market Street
Philadelphia. PA 19107-2934 $2,380.28

Check #TA 15698989 dated May 6, 2013
Almandani, Omar A & K R A
1917 Lakewood Drive
Elizabethtown, KY 42701-5526 $14.00

Check #L1 11606552 dated March 25, 2011
Bowles, Wallace
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $661.06

Check #TA 14662475 dated September 29, 2011
Brown, Kerry M and J L
3129 Tricia Court
Burlington, KY 41005-9500 $1,484.00

Check #EA 11548836 dated October 26, 2012
Burke, Michael and Sona C
1298 Beefhide Creek
Jenkins, KY 41537-8307 $684.72

Check #L1 11632666 dated June 17, 2011
Collins, Alice
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $221.20

Check #TA 15656080 dated April 23, 2013
Daniel, Emily B
1056 Local Road
Oakwood, VA 24631-8453 $196.00

Check #T1 13954967 dated April 27, 2010
Deb, Dibyajyoti
5714 Glenridge Way
Klamath Falls, OR 97603-4118 $69.00

Check #T1 3825990 dated January 31, 2006
Farley, James W
9204 Walhampton Court
Louisville, KY 40242-2342 $434.00

Check #G1 13501171 dated June 27, 2008
Fourth District Voluntary Fire Department

PO Box 32

Roundhill, KY 42275-0032 $1,184.95

Check #T1 13927503 dated April 21, 2010

Giancola, Kathryn J

211 McCrae Lane, Apt D

Covington, KY 41011-5109 $253.00

Check #TA 15598230 dated April 11, 2013

Gulve, Revansidha

217 Egret Run Lane, Unit 923

Pawleys Island, SC 29585-7405 $548.00

Check #TA 14479776 dated April 13, 2011

Hall, Phyllis J

314 Bear Creek Road

Strunk, KY 42649-9304 $309.00

Check #T1 1755994 dated April 28, 2003

Henegar, James W and J C

2142 Plymouth Rock Road

Abilene, TX 79601-4728 $276.00

Check #GA 16331067 dated July 29, 2011

Hess, Albert

C/O Charlie Donovan

42 Millcreek Park

Frankfort, KY 40601-9230 $224.00

Check #TA 15256574 dated October 31, 2012

Howard, Sandra L

PO Box 754

Hillsboro, OH 45133-0754 $167.00

Check #T1 12908917 dated February 24, 2009

Hyden, Gregory C

550 Westgate Drive

Somerset, KY 42503-4701 $140.00

Check #BA 11080745 dated November 16, 2011

Indiana American Water Company

Attn: Margaret Silhol

131 Woodcrest Road

Cherry Hill, NJ 08003-3620 $12,265.48

Check #T1 13726621 dated March 12, 2010

Lavey, Mary E

1360 North 43rd Avenue, #418

Phoenix, AZ 85009-3160 $15.00

Check #E1 11428917 dated June 1, 2011

Lopezolalde, Mario

5690 Louisville Road, Lot 167

Bowling Green, KY 42101-7222 $39.00

Check #TA 14983695 dated March 20, 2012

Luckett, James N and L S

2550 Poplar Flat Road

Bardstown, KY 40004-8916 $253.00

Check #TA 15235028 dated August 3, 2012

Martin, Stanley F

668 Long Cove Court

Riverwoods, IL 60015-3850 $148.00

Check #TA 15752381 dated May 24, 2013

Nienaber, John B and W C

15 Hartweg Avenue

Fort Thomas, KY 41075-1319 $331.00

Check #TA 15617851 dated April 16, 2013

Ohler, Charles E and Mary R

5101 Cumberland Falls Highway

Corbin, KY 40701-8631 $171.00

Check #GA 17513956 dated September 17, 2012

Pardue, Anita

5704 Walnut Way

Louisville, KY 40229-2344 $61.05

Check #BA 11071469 dated March 4, 2011

Pathgroup, Inc.

Attn: Angela Aldridge

5301 Virginia Way, Suite 300

Brentwood, TN 37027-7542 $2,948.49

Check #G1 15808583 dated December 28, 2010

Peoples, Dorothy M

4519 Garland Avenue

Louisville, KY 40211-2733 $19.00

Check #T1 1775030 dated May 2, 2003

Potter, Stephen R and L L (Deceased)

1822 Knollmont Drive

Florence, KY 41042-4334 $719.00

Check #TA 15793511 dated October 1, 2013

Robertson, Teri G
37 Augusta Circle
Glasgow, KY 42141-8242 $220.00

Check #BA 11096695 dated January 11, 2013
Saint Ann Church
304 South Church Street
Morganfield, KY 42437-1609 $245.65

Check #GA 17052639 dated April 6, 2012
Schroader, Ellis M
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $555.32

Check #T1 14612406 dated May 12, 2011
Shartle, Tony R
1088 Kelsey Drive
Lexington, KY 40504-1303 $388.00

Check #L1 11600835 dated March 11, 2011
Smith, Frank Dale
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $109.72

Check #T1 14173484 dated February 9, 2011
Spears, Robert L and Dawn R
5743 Ky Route 1100 E
East Point, KY 41216-9006 $84.00

Check #T1 14232488 dated February 18, 2011
Stewart, Phillip L and J E
1030 Henley Circle
Carmel, IN 46032-7713 $2,114.00

Check #T1 12593996 dated May 8, 2008
Troha, Matthew T
PO Box 581025
Pleasant Prairie, WI 53158-8131 $200.00

Check #GA 17695578 dated November 21, 2012
Estate of Jennifer Vastine
C/O Daniel R Braun, PSC
526 Greenup Street
Covington, KY 41011-2522 $91.57

Check #GA 16290947 dated July 15, 2011

Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16333793 dated July 29, 2011
Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16412356 dated August 26, 2011
Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16454207 dated September 9, 2011
Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16498651 dated September 23, 2011
Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16538797 dated October 7, 2011
Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16579700 dated October 21, 2011
Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16668439 dated November 18, 2011
Whisman, Virginia
C/O Charlie Donovan
42 Millcreek Park
Frankfort, KY 40601-9230 $49.92

Check #GA 16704744 dated December 2, 2011

Whisman, Virginia

C/O Charlie Donovan

42 Millcreek Park

Frankfort, KY 40601-9230 $49.92

Check #GA 16744650 dated December 16, 2011

Whisman, Virginia

C/O Charlie Donovan

42 Millcreek Park

Frankfort, KY 40601-9230 $49.92

Check #GA 16783970 dated December 30, 2011

Whisman, Virginia

C/O Charlie Donovan

42 Millcreek Park

Frankfort, KY 40601-9230 $49.92

Check #T1 9167726 dated April 27, 2001

Whobrey, Michael D and M A

4820 Dover Road

Louisville, KY 40216-2953 $803.00

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

Signed by Governor March 25, 2019.

CHAPTER 69

(HB 335)

AN ACT relating to property owned by local governments and declaring an emergency.

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

➔Section 1. KRS 67.0802 is amended to read as follows:

(1) ***As used in this section, "independent appraisal" means an appraisal made by:***

(a) An individual or organization not affiliated with the county or its officers or employees, using a generally accepted national or professional standard; or

(b) A county's officers or employees using a nationally published valuation of property based on the most recent edition of the publication.

(2) A county may sell or otherwise dispose of any of its real or personal property.

(3) ~~[(2)]~~ Before selling or otherwise disposing of any real or personal property, the county shall make a written determination setting forth and fully describing:

(a) The real or personal property;

(b) Its intended use at the time of acquisition;

(c) The reasons why it is in the public interest to dispose of it; and

(d) The method of disposition to be used.

(4)~~[(3)]~~ Real or personal property may be:

(a) Transferred, with or without compensation, to another governmental agency;

(b) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);

(c) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b);~~[or]~~

(d) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4)***;***

(e) Transferred, with or without compensation, for economic development purposes, which shall include but not be limited to real property transfers for the elimination of blight;

(f) Traded towards the acquisition of the same or similar type of property if the value of the property the county is receiving in exchange equals or exceeds the actual fair market value of the property it traded as determined using an independent appraisal;

(g) 1. Sold for its appraised fair market value or a greater amount if the property is valued at five thousand dollars ($5,000) or less in an independent appraisal without using the procedure set out in paragraph (d) of this subsection.

2. Property sold under this paragraph shall not be sold to a county officer or employee;

(h) Sold for scrap or disposed of as garbage, of which road millings and dirt may be considered as such, in a manner consistent with the public interest if the property has no value, or is of a nominal value as determined by an independent appraisal; or

(i) Sold by the Finance and Administration Cabinet under an agreement with the county.

(5)~~[(4)]~~ If a county receives no bids for the real or personal property, either at public or electronic auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the county. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.

(6)~~[(5)]~~ Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the county.

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

(1) A local public agency may sell or otherwise dispose of any personal property which is not needed or has become unsuitable for public use, or which would be suitable, consistent with the public interest, for some other use.

(2) A written determination as to need of suitability of any personal property of the local public agency shall be made; and such determination shall fully describe the personal property; its intended use at the time of acquisition; the reasons why it is in the public interest to dispose of the item; and the method of disposition to be used.

(3) Surplus or excess personal property as described in this section may be transferred, with or without compensation, to another governmental agency; or it may be sold at public auction or by sealed bids in accordance with KRS 45A.365.

(4) In the event that a local public agency receives no bids for surplus or excess personal property, either at public auction or by sealed bid, such property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the local public agency. In such instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made. Any compensation resulting from the disposal of surplus or excess personal property shall be transferred to the general fund of the local public agency.

(5) A local board of education may dispose of its surplus technology in accordance with KRS 160.335.

(6) As an alternative procedure to that set out in this section, a county may dispose of personal property pursuant to Section 1 of this Act.

➔Section 3. The Kentucky Administrative Office of the Courts shall not close or relocate operations of any satellite or extension facilities that it maintains in the City of Corbin on the effective date of this Act for the 2018-2020 fiscal biennium. The lease amount for such facilities shall not exceed $50,000 per fiscal year. The provisions of this section shall expire after June 30, 2020.

➔Section 4. Whereas in order to give local governments the most flexibility in administering their properties, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 25, 2019.

CHAPTER 70

(HB 382)

AN ACT relating to the Kentucky Life and Health Insurance Guaranty Association Act.

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

➔Section 1. KRS 304.42-020 is amended to read as follows:

The purpose of this subtitle is to protect the persons specified in KRS 304.42-030(1), subject to certain limitations, against failure in the performance of contractual obligations under life***,***~~[and]~~ health~~[insurance policies]~~ and annuity ***policies, plans, or*** contracts specified in KRS 304.42-030(2) because of the impairment or insolvency of the member insurer that issued the policies***, plans,*** or contracts. To provide this protection:

(1) An association of ***member*** insurers is created to pay benefits and to continue coverages as limited by this subtitle; and

(2) ***Member insurers***~~[Members]~~ of the association are subject to assessment to provide funds to carry out the purpose of this subtitle.

➔Section 2. KRS 304.42-030 is amended to read as follows:

(1) This subtitle shall provide coverage for the policies and contracts specified in subsection (2) of this section:

(a) To persons who, regardless of where they reside (except for nonresident certificate holders ***or enrollees*** under group policies or contracts), are the beneficiaries, assignees, or payees***, including health care providers rendering services covered under a health insurance policy, contract, or certificate,*** of the persons covered under paragraph (b) of this subsection.

(b) To persons who are the owners of or certificate holders ***or enrollees*** under such policies or contracts, other than structured settlement annuities, who:

1. Are residents; or

2. Are not residents, but only under the following conditions:

a. The ***member*** insurer which issued the policies or contracts is domiciled in this state;

b. The states in which the persons reside have associations similar to the association created by this subtitle; and

c. The persons are not eligible for coverage by an association in any other state due to the fact that the insurer ***or health maintenance organization*** was not licensed in the state at the time specified in the state's guaranty association law.

(c) For structured settlement annuities covered in subsection (2) of this section, paragraphs (a) and (b) of this subsection shall not apply and this subtitle shall, except as provided in paragraphs (d) and (e) of this subsection, provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee is a resident, regardless of where the contract owner resides. If the payee is not a resident, this subtitle shall provide coverage but only under both of the following conditions:

1. a. The contract owner of the structured settlement annuity is a resident; or

b. The contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this state and the state in which the contract owner resides has an association similar to the association created by this subtitle; and

2. Neither the payee, the beneficiary, nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(d) This subtitle shall not provide coverage to***:***

1. A person who is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state***; or***

2. A person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. sec. 5891(c)(3)(A), regardless of whether the transaction occurred before or after the section became effective.

(e) This subtitle is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage in this subtitle is provided coverage under the laws of any other state, the person shall not be provided coverage under this subtitle. In determining the application of the provisions of this paragraph in situations where a person could be covered by the association of more than one (1) state, whether as an owner, payee, ***enrollee,*** beneficiary, or assignee, this subtitle shall be construed in conjunction with other state laws to result in coverage by only one (1) association.

(2) (a) This subtitle shall provide coverage to the persons specified in subsection (1) of this section for ***policies and contracts of*** direct, nongroup life ***insurance***, health ***insurance***, ***which for purposes of this subtitle includes health maintenance organization subscriber contracts and certificates,*** or ***annuities***~~[annuity policies or contracts]~~ and supplemental contracts to any of these and for certificates issued under direct group policies and contracts.

(b) This subtitle shall not provide coverage for:

1. Any portion of a policy or contract not guaranteed by the ***member*** insurer, or under which the risk is borne by the policy or contract owner;

2. Any policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

3. ***Except as otherwise provided in paragraph (c) of this subsection,*** any portion of a policy or contract to the extent that the rate of interest on which it is based:

a. Averaged over the period of four (4) years prior to the date on which the association becomes obligated with respect to such policy or contract, exceeds a rate of interest determined by subtracting two (2) percentage points from Moody's corporate bond yield average averaged for that same four (4) year period or for such lesser period if the policy or contract was issued less than four (4) years before the association became obligated; and

b. On and after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's corporate bond yield average as most recently available;

4. Any portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, health, or annuity benefits to its employees, members, or others to the extent that such plan or program is self-funded or uninsured including, but not limited to, benefits payable by an employer, association, or other person under:

a. A multiple employer welfare arrangement as defined in 29 U.S.C. sec. 1144;

b. A minimum premium group insurance plan;

c. A stop-loss group insurance plan; or

d. An administrative services only contract;

5. Any portion of a policy or contract to the extent that it provides for:

a. Dividends or experience rating credits;

b. Payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of such policy or contract; or

c. Voting rights;

6. Any policy or contract issued in this state by a member insurer at a time when it did not have a certificate of authority to issue such policy or contract in this state;

7. Any unallocated annuity contract;

8. A portion of a policy or contract to the extent that the assessments required by KRS 304.42-090 with respect to the policy or contract are preempted by federal or state law;

9. An obligation that does not arise under the express written terms of the policy or contract issued by the ***member*** insurer to the ***enrollee, certificate holder, policyholder,*** contract owner***,*** or policy owner, including without limitation:

a. Claims based on marketing materials;

b. Claims based on side letters, riders, or other documents that were issued by the ***member*** insurer without meeting applicable policy ***or contract*** form filing or approval requirements;

c. Misrepresentations of or regarding policy ***or contract*** benefits;

d. Extracontractual claims; or

e. A claim for penalties or consequential or incidental damages;

10. A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee which in each case is not an affiliate of the member insurer;~~[and]~~

11. A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to***:***

a. Medicare Part C or Part D, 42 U.S.C. secs. 1395w-21 to ***w-154;***~~[w-152,]~~

b. Medicaid, 42 U.S.C. secs. 1396 to 1396w-5; or

c. Any regulations issued pursuant ***to the sections referenced in subdivision a. or b. of this subparagraph; and***~~[thereto]~~

12. Structured settlement annuity benefits to which a payee or beneficiary has transferred his or her rights in a structured settlement factoring transaction as defined in 26 U.S.C. 5891(c)(3)(A), regardless of whether the transaction occurred before or after the section became effective.

(c) The exclusion of coverage under paragraph (b)3. of this subsection shall not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other health insurance benefits.

(3) (a) The benefits that the association may become obligated to cover shall in no event exceed the lesser of the contractual obligations for which the ***member*** insurer is liable or would have been liable if it were not an impaired or insolvent insurer, or with respect to any one (1) life, regardless of the number of policies or contracts:

1. In life insurance, three hundred thousand dollars ($300,000) in death benefits, but not more than one hundred thousand dollars ($100,000) net cash surrender and net cash withdrawal values for life insurance;

2. ***For***~~[In]~~ health insurance benefits:

a. One hundred thousand dollars ($100,000) for coverages not defined as disability ***income*** insurance***,***~~[or]~~ ***health benefit plans***~~[basic hospital, medical, and surgical insurance, major medical insurance]~~, or long-term care insurance, including any net cash surrender and net cash withdrawal values;

b. Three hundred thousand dollars ($300,000) for disability ***income*** insurance and~~[three hundred thousand dollars ($300,000) for]~~ long-term care insurance; and

c. Five hundred thousand dollars ($500,000) for ***health benefit plans***~~[basic hospital, medical, and surgical insurance or major medical insurance]~~; and

3. In annuity benefits, two hundred fifty thousand dollars ($250,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; except with respect to each payee of a structured settlement annuity or beneficiary or beneficiaries of the payee if deceased, two hundred fifty thousand dollars ($250,000) in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values.

(b) In no event shall the association be obligated to cover more than:

1. An aggregate of three hundred thousand dollars ($300,000) in benefits with respect to any one (1) life under subparagraphs 2. and 3. of paragraph (a) of this subsection, except with respect to benefits for ***health benefit plans***~~[basic hospital, medical, and surgical insurance and major medical insurance]~~ as stated in paragraph (a) of this subsection, in which case the aggregate liability of the association shall not exceed five hundred thousand dollars ($500,000) with respect to any one (1) individual; or

2. With respect to one (1) owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than five million dollars ($5,000,000) in benefits, regardless of the number of policies and contracts held by the owner.

(c) The limitations set forth in this subsection are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this subtitle may be met by the use of assets attributable to covered policies or reimbursed to the association in accordance with its subrogation and assignment rights.

(d) For purposes of this subtitle, benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

(4) In performing its obligations to provide coverage under KRS 304.42-080, the association shall not be required to guarantee, assume, reinsure***, reissue,*** or perform, or cause to be performed, assumed, reinsured***, reissued,*** or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

➔Section 3. KRS 304.42-050 is amended to read as follows:

As used in this subtitle:

(1) "Account" means either of the three (3) accounts created under KRS 304.42-060;

(2) "Association" means the Kentucky Life and Health Insurance Guaranty Association created under KRS 304.42-060;

(3) "Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specific amount. An assessment is authorized when the resolution is passed;

(4) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan;

(5) "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers;

(6) ~~["Commissioner" means the commissioner of the Department of Insurance of this state;~~

~~(7)]~~"Contractual obligation" means any obligation under a policy or contract or a certificate under a group policy or contract, or portion thereof, for which coverage is provided under KRS 304.42-030;

(7) ~~[(8)]~~ ***"Covered contract" or*** "covered policy" ***mean*** ~~[means]~~ any policy or contract or portion of a policy or contract for which coverage is provided under KRS 304.42-030;

(8) ~~[(9)]~~ "Extracontractual claims" include but are not limited to claims relating to bad faith in the payment of claims, punitive or exemplary damages, and attorneys' fees and costs;

(9) "Health benefit plan" means any hospital or medical expense policy or certificate, or health maintenance organization subscriber contract or any other similar health contract, except:

(a) Accident only insurance;

(b) Credit insurance;

(c) Dental only insurance;

(d) Vision only insurance;

(e) Medicare Supplement insurance;

(f) Benefits for long-term care, home health care, community-based care, or any combination thereof;

(g) Disability income insurance;

(h) Coverage for on-site medical clinics; or

(i) Specified disease, hospital confinement indemnity, or limited benefit health insurance if the coverage:

1. Does not provide coordination of benefits; and

2. Is provided under separate policies or certificates;

(10) "Impaired insurer" means a member insurer which, after June 17, 1978, is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction;

(11) "Insolvent insurer" means a member insurer which after June 17, 1978, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency;

(12) "Member insurer" means any insurer ***or health maintenance organization licensed or*** authorized to transact in this state any kind of insurance ***or health maintenance organization business*** for which coverage is provided under KRS 304.42-030, and includes any insurer ***or health maintenance organization*** whose ***license or*** certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

(a) A nonprofit hospital, medical-surgical, dental, and health service corporation, as defined by Subtitle 32 of this chapter;

(b) ~~[A health maintenance organization;~~

~~(c)]~~A fraternal benefit society;

(c) ~~[(d)]~~ A mandatory state pooling plan;

(d) ~~[(e)]~~ An assessment or cooperative insurer or any entity that operates on an assessment basis;

(e) ~~[(f)]~~ An insurance exchange;

(f) ~~[(g)]~~ Any entity similar to the above;

~~[(h) Health insurance where such insurance is written by a member of the Kentucky Insurance Guaranty Association;]~~ or

(g) ~~[(i)]~~ A limited health service organization;

(13) "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's Investors Service, Inc., or any successor thereto;

(14) "Owner" of a policy or contract***, "policyholder,"*** ~~[and]~~ "policy owner***,***" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the ***member*** insurer. The terms "owner,"

"contract owner," ***"policyholder",*** and "policy owner" do not include persons with a mere beneficial interest in a policy or contract;

(15) ~~["Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits, and less dividends and experience credits. "Premiums" does not include amounts or considerations received for any policies or contracts or for the portions of policies or contracts for which coverage is not provided under KRS 304.42-030(2), except that assessable premium shall not be reduced on account of KRS 304.42-030(2)(b)3. Relative to interest limitations and KRS 304.42-030(3)(b) relating to limitations with respect to one (1) individual and one (1) contract owner. "Premiums" shall not include with respect to multiple nongroup policies of life insurance owned by one (1) owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of one million dollars ($1,000,000) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner;~~

~~(16) ~~]"Person" means any individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization;

(16) ~~[(17)]~~ "Plan sponsor" means:

(a) The employer in the case of a benefit plan established or maintained by a single employer;

(b) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(c) In a case of a benefit plan established or maintained by two (2) or more employers or jointly by one (1) or more employers and one (1) or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan;

(17) (a) "Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits, and less dividends and experience credits.

(b) "Premiums" does not include:

1. Amounts or considerations received for any policies or contracts or for the portions of policies or contracts for which coverage is not provided under KRS 304.42-030(2), except that assessable premium shall not be reduced on account of KRS 304.42-030(2)(b)3. relating to interest limitations and KRS 304.42-030(3)(b) relating to limitations with respect to one (1) individual and one (1) policy or contract owner; and

2. With respect to multiple nongroup policies of life insurance owned by one (1) owner, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of one million dollars ($1,000,000) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner;

(18) (a) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise the function, determined by the association in its reasonable judgment by considering the following factors:

1. The state in which the primary executive and administrative headquarters of the entity is located;

2. The state in which the principal office of the chief executive officer of the entity is located;

3. The state in which the board of directors or similar governing person or persons of the entity conducts the majority of its meetings;

4. The state in which the executive or management committee of the board of directors or similar governing person or persons of the entity conducts the majority of its meetings;

5. The state from which the management of the overall operations of the entity is directed; and

6. In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors.

However, in the case of a plan sponsor, if more than fifty percent (50%) of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor.

(b) The principal place of business of a plan sponsor of a benefit plan described in subsection ***(16)*** ~~[(17)]~~(c) of this section shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan or question;

(19) "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the ***member*** insurer;

(20) "Resident" means any person to whom a contractual obligation is owed and who resides in this state on the date when a member insurer is determined to be an impaired or insolvent insurer, whichever occurs first. A person may be a resident of only one (1) state, which in the case of a person other than a natural person shall be its principal place of business. Citizens of the United States that are either residents of foreign countries or residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by this subtitle shall be deemed residents of the state of domicile of the ***member*** insurer that issued the policies or contracts;

(21) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant;

(22) "State" means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate;

(23) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract; and

(24) "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

➔Section 4. KRS 304.42-060 is amended to read as follows:

(1) There is created a nonprofit legal entity to be known as the Kentucky Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their ***license or*** authority to transact insurance ***or health maintenance organization business*** in this state. The association shall perform its functions under the plan of operation established and approved under KRS 304.42-100 and shall exercise its powers through a board of directors established under KRS 304.42-070. For purposes of administration and assessment, the association shall maintain three (3) accounts:

(a) The health~~[insurance]~~ account;

(b) The life insurance account; and

(c) The annuity account.

(2) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

➔Section 5. KRS 304.42-080 is amended to read as follows:

(1) If a member insurer is an impaired insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner:

(a) Guarantee, assume, ***reissue,*** or reinsure, or cause to be guaranteed, assumed, ***reissued,*** or reinsured, any or all of the policies or contracts of the impaired insurer; or

(b) Provide such monies, pledges, loans, notes, guarantees, or other means as are proper to effectuate paragraph (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a) of this subsection.

(2) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a) 1. Guarantee, assume, ***reissue,*** or reinsure, or cause to be guaranteed, assumed, ***reissued,*** or reinsured, the policies or contracts of the insolvent insurer; or

2. Assure payment of the contractual obligations of the insolvent insurer; and

3. Provide such monies, pledges, loans, notes, guarantees, or other means as are reasonably necessary to discharge such duties; or

(b) Provide benefits and coverages in accordance ***with*** the following provisions:

1. ~~[With respect to life and health insurance policies and annuities,]~~Assure payment of benefits~~[for premiums identical to the premiums and benefits (except for terms of conversion and renewability)]~~ that would have been payable under policies or contracts of the insolvent insurer, for claims incurred:

a. With respect to group policies and contracts, not later than the earlier of the next renewal date under such policies or contracts or forty-five (45) days, but in no event less than thirty (30) days, after the date on which the association becomes obligated with respect to such policies or contracts;

b. With respect to nongroup policies, contracts, and annuities not later than the earlier of the next renewal date (if any) under such policies or contracts or one (1) year, but in no event less than thirty (30) days, from the date on which the association becomes obligated with respect to such policies or contracts;

2. Make diligent efforts to provide all known insureds***, enrollees,*** or annuitants for nongroup policies and contracts, or group policy ***or contract*** owners with respect to group policies and contracts thirty (30) days' notice of the termination under subparagraph 1. of this paragraph of the benefits provided;

3. With respect to individual~~[health and life insurance]~~ policies~~[,]~~ and ***contracts***~~[annuities]~~ covered by the association, make available to each known insured***, enrollee,*** or annuitant, or owner if other than the insured***, enrollee,*** or annuitant, and with respect to an individual formerly ***an*** insured***, enrollee,*** or~~[formerly and]~~ annuitant under a group policy ***or contract*** who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of subparagraph 4. of this paragraph, if the insureds***, enrollees,*** or annuitants had a right under law or the terminated policy***, contract, or annuity*** to convert coverage to individual coverage or to continue an individual policy***, contract,*** or annuity in force until a specified age or for a specified time, during which the insurer ***or health maintenance organization*** had no right unilaterally to make changes in any provision of the policy***, contract, or annuity*** or had a right only to make changes in premium by class;

4. a. In providing substitute coverage required under subparagraph 3. of this paragraph the association may offer either to reissue the terminated coverage or to issue an alternative policy ***or contract at actuarially justified rates***.

b. Alternative or reissued policies ***or contracts*** shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy ***or contract***.

c. The association may reinsure any alternative or reissued policy ***or contract***;

5. a. Alternative policies ***or contracts*** adopted by the association shall be subject to approval by the ~~[domiciliary insurance]~~ commissioner~~[or receivership court]~~. The association may adopt alternative policies ***or contracts*** of various types for future issuance without regard to any particular impairment or insolvency.

b. Alternative policies ***or contracts*** shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of

rates which it shall adopt. The premium shall reflect the amount of insurance ***or coverage*** to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured ***or enrollee*** after the original policy ***or contract*** was last underwritten.

c. Any alternative policy ***or contract*** issued by the association shall provide coverage of a type similar to that of the policy ***or contract*** issued by the impaired or insolvent insurer, as determined by the association;

6. If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy ***or contract***, the premium shall be ***actuarially justified and*** set by the association in accordance with the amount of insurance ***or coverage*** provided and the age and class of risk, subject to approval by the~~[domiciliary insurance]~~ commissioner~~[or by the receivership court]~~; and

7. The association's obligations with respect to coverage under any policy ***or contract*** of the impaired or insolvent insurer or under any reissued or alternative policy ***or contract*** shall cease on the date such coverage***, contract,*** or policy is replaced by another similar policy ***or contract*** by the policy ***or contract*** owner, ***enrollee,*** the insured, or the association.

(3) When proceeding under subsection (2)(b) of this section with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with KRS 304.42-030(2)(b)3.

(4) Nonpayment of premiums within thirty-one (31) days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract for substitute coverage shall terminate the association's obligations under such policy***, contract,*** or coverage under this subtitle with respect to such policy***, contract,*** or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this subtitle.

(5) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association, and the association shall be liable for unearned premiums due to policy or contract owners arising after the entry of such order.

(6) The protection provided by this subtitle shall not apply where any guaranteed protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(7) In carrying out its duties under subsection (2) of this section, the association may:

(a) Subject to approval by a court in this state, impose permanent policy or contract liens in connection with any guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this subtitle are less than the amounts needed to assure full and prompt performance of the association's duties under this subtitle, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens to be in the public interest; and

(b) Subject to approval by a court in this state, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(8) A deposit in this state, held under law or required by the commissioner for the benefit of creditors, including policy ***or contract*** owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of ***a member***~~[an]~~ insurer domiciled in this state or in a reciprocal state, shall be promptly paid to the association. The association:

(a) Shall be entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy ***or contract*** owners' claims related to that insolvency for which

the association has provided statutory benefits by the aggregate amount of all policy ***or contract*** owners' claims in this state related to that insolvency; and

(b) Shall remit to the domiciliary receiver the amount so paid to the association and retained in accordance with paragraph (a) of this subsection. Any amount so paid to the association less the amount retained by it in accordance with paragraph (a) of this subsection shall be treated as a distribution of estate assets under KRS 304.33-440 or similar provision of the state of domicile of the impaired or insolvent insurer.

(9) If the association fails to act within a reasonable period of time with respect to an insolvent insurer as provided in subsection (2) of this section, the commissioner shall have the powers and duties of the association under this subtitle with respect to the insolvent insurer.

(10) The association may render assistance and advice to the commissioner, upon his or her request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(11) The association shall have standing to appear or intervene before any court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this subtitle or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, ***reissuing,*** modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(12) (a) Any person receiving benefits under this subtitle shall be deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to, the covered policy or contract to the association to the extent the benefits received because of this subtitle, whether benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative ***policies, contracts, or*** coverages. The association may require an assignment to it of such rights and cause of action by any payee, policy or contract owner, beneficiary, insured, ***enrollee,*** or annuitant as a condition precedent to the receipt of any right or benefits conferred by this subtitle upon such person.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this subtitle.

(c) In addition to paragraphs (a) and (b) of this subsection, the association shall have all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, ***enrollee,*** or payee of a policy or contract with respect to such policy or contract, including without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary, ***enrollee,*** or payee of the annuity, to the extent of benefits received under this subtitle against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment therefor.

(d) If the preceding provisions of this subsection are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies***, contracts,*** or portion thereof covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in the preceding paragraphs of this subsection, the person shall pay to the association the portion of the recovery attributable to the policies***, contracts,*** or portion thereof covered by the association.

(13) In addition to the rights and powers elsewhere in this subtitle, the association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this subtitle;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under KRS 304.42-090 and to settle claims or potential claims against it;

(c) Borrow money to effect the purposes of this subtitle; any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic ***member*** insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary or appropriate to handle the financial transactions of the association, and to perform such other functions as may become necessary or proper under this subtitle;

(e) Take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(f) Exercise, for the purposes of this subtitle and to the extent approved by the commissioner, the powers of a domestic life ***insurer,*** ~~[or]~~ health insurer, ***or health maintenance organization,*** but in no case may the association issue ~~[insurance]~~ policies or ~~[annuity]~~ contracts other than those issued to perform its obligations under this subtitle;

(g) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(h) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this subtitle with respect to the person, and the person shall promptly comply with the request; ~~[and]~~

(i) ***Unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this subtitle; and***

(j) Take other necessary or appropriate action to discharge its duties and obligations under this subtitle or to exercise its powers under this subtitle.

(14) The association may join an organization of one (1) or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(15) (a) At any time within one (1) year after the date on which the association becomes responsible for the obligations of a member insurer, the association may elect to succeed to the rights and obligations of the member insurer that accrue on or after that date and that relate to ***policies,*** contracts***, or annuities*** covered in whole or in part by the association, under any one (1) or more indemnity reinsurance agreements entered into by the member insurer as a ceding ***member*** insurer and selected by the association. The association may not exercise any such election with respect to a reinsurance agreement if the receiver, rehabilitator, or liquidator of the member insurer has previously and expressly disaffirmed the reinsurance agreement. The election shall be effected by a notice to the receiver, rehabilitator, or liquidator and to the affected reinsurer. If the association makes an election, subparagraphs 1. to 4. of this paragraph shall apply with respect to the agreements selected by the association:

1. The association shall be responsible for all unpaid premiums due under the agreements for periods both before and after the date, and shall be responsible for the performance of all other obligations to be performed after the coverage date, in each case which relate to ***policies,*** contracts***, or annuities*** covered, in whole or in part, by the association. The association may charge ***policies,*** contracts***, or annuities*** covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association;

2. The association shall be entitled to any amounts payable by the reinsurer under the agreements with respect to losses or events that occur in periods after the coverage date and that relate to ***policies,*** contracts***, or annuities*** covered by the association, in whole or in part. Upon receipt of any such amounts the association shall be obliged to pay to the beneficiary under the policy***,*** ~~[or]~~ contract***, or annuity*** on account of which the amounts were paid a portion of the amount equal to the excess of:

   a. The amount received by the association, over

   b. The benefits paid by the association on account of the policy***,*** ~~[or]~~ contract***, or annuity*** less the retention of the impaired or insolvent member insurer applicable to the loss or event;

3. Within thirty (30) days following the association's election, the association and each indemnity reinsurer shall calculate the net balance due to or from the association under each such reinsurance agreement as of the date of the association's election ***with respect to policies,***

contracts, or annuities covered in whole or in part by the association, which calculation shall give full credit to all items paid by either the member insurer or its receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period between the coverage date and the date of the association's election. Either the association or indemnity reinsurer shall pay the net balance due the other within five (5) days of the completion of the calculation. If the receiver, rehabilitator, or liquidator has received any amounts due the association under subparagraph 2. of this paragraph, the receiver, rehabilitator, or liquidator shall remit those amounts to the association as promptly as practicable; and

4. If the association, within sixty (60) days of the election, pays the premiums due for periods both before and after the coverage date that relate to ***policies,*** contracts***, or annuities*** covered by the association in whole or in part, the ***member*** insurer shall not be entitled to terminate the reinsurance agreements insofar as the agreements relate to ***policies,*** contracts***, or annuities*** covered by the association in whole or in part and shall not be entitled to set off any unpaid premium due for periods prior to the coverage date against amounts due the association.

(b) If the association transfers its obligations to another insurer, and if the association and the other insurer agree, the other insurer shall succeed to the rights and obligations of the association under paragraph (a) of this subsection effective as of the date agreed upon by the association and the other insurer and regardless of whether the association has made the election referred to in paragraph (a) of this subsection if:

1. The indemnity reinsurance agreements automatically terminate for new reinsurance unless the indemnity reinsurer and the other ***member*** insurer agree to the contrary;

2. The obligations described in subparagraph 2. of paragraph (a) of this subsection no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third party ***member*** insurer; and

3. The association has not previously expressly determined in writing that it will not exercise the election referred to in paragraph (a) of this subsection.

(c) The provisions of this subsection shall supersede the provisions of any ***state*** law~~[of this state]~~ or of any affected reinsurance agreements that provide for or require any payment of reinsurance proceeds, on account of losses or events that occur in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the insolvent member insurer. The receiver, rehabilitator, or liquidator shall remain entitled to any amounts payable by the reinsurer under the reinsurance agreements with respect to losses or events that occur in periods prior to the coverage date, subject to applicable setoff provisions.

(d) Except as otherwise expressly provided in this subsection, nothing in this subsection shall alter or modify the terms and conditions of the indemnity reinsurance agreements of the insolvent member insurer. Nothing in this subsection shall abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance agreement. Nothing in this subsection shall give a ***policyholder, contract***~~[policy]~~ owner***. enrollee, certificate holder,*** or beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

(16) The board of directors of the association shall have discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this subtitle in an economical and efficient manner.

(17) If the association has arranged or offered to provide the benefits of this subtitle to a covered person under a plan or arrangement that fulfills the association's obligations under this subtitle, the person shall not be entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(18) Venue in a suit against the association under this subtitle shall be in Franklin County. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this subtitle.

➔Section 6. KRS 304.42-090 is amended to read as follows:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than thirty (30) days after prior written notice to the member insurers and shall accrue interest at eight percent (8%) per annum on and after the due date.

(2) There shall be two (2) classes of assessments:

(a) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer;

(b) Class B assessments shall be authorized and called to the extent necessary to carry out the powers and duties of the association under KRS 304.42-080 with regard to an impaired or insolvent insurer.

(3) (a) The amount of any Class A assessment shall be determined by the board and may be authorized and called on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future Class B assessments.~~[The total of all non-pro rata assessments shall not exceed one hundred fifty dollars ($150) per member insurer in any one (1) calendar year.]~~ The amount of any Class B assessment***, except for assessments related to long-term care insurance,*** shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(b) ***The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation and approved by the commissioner. The methodology shall provide for fifty percent (50%) of the assessment to be allocated to accident and health member insurers and fifty percent (50%) to be allocated to life and annuity member insurers.***

(c) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three (3) most recent calendar years for which information is available preceding the year in which the ***member*** insurer became insolvent, or in the case of assessment with respect to an impaired insurer, the three (3) most recent calendar years for which information is available preceding the year in which the ***member*** insurer became impaired, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

(d)~~[(c)]~~ Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this subtitle. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty (180) days after the assessment is authorized.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member shall pay all assessments that were deferred under a repayment plan approved by the association.

(5) (a) Subject to the provisions of paragraph (b) of this subsection, the total of all assessments authorized by the association with respect to a member insurer for each account shall not in any one (1) calendar year exceed two percent (2%) of the ***member*** insurer's average annual premiums received in this state on the policies and contracts covered by the account during the three (3) calendar years preceding the year in which the ***member*** insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any other account, does not provide in any one (1) year in any other account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this subtitle.

(b) If two (2) or more assessments are authorized in one (1) calendar year with respect to ***member*** insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in paragraph (a) of this subsection shall be equal and limited to the higher of the three (3) year average annual premiums for the applicable account as calculated under this section.

(c) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one (1) or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(d) If the maximum assessment for the life insurance account or the annuity account in one year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to paragraph (c) of this subsection, the board shall access the other account for the necessary additional amount, subject to the maximum stated in paragraph (a) of this subsection.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each ***member*** insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses claims.

(7) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance ***or health maintenance organization business*** within the scope of this subtitle, to consider the amount reasonably necessary to meet its assessment obligations under this subtitle.

(8) The association shall issue to each ***member*** insurer paying an assessment under this subtitle, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the ***member*** insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

(9) (a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment shall be available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(b) Within sixty (60) days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within thirty (30) days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty (60) days of receipt of notice of the final decision, the protesting member insurer may appeal the final action to the commissioner, in accordance with KRS 304.42-110(3).

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the commissioner for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member ***insurer***~~[company]~~. Interest on a refund due a protesting member ***insurer*** shall be paid at the rate actually earned by the association.

(10) The association may request information of member insurers in order to aid in the exercise of its power under this section and member insurers shall promptly comply with a request.

➔Section 7. KRS 304.42-110 is amended to read as follows:

In addition to the duties and powers enumerated elsewhere in this subtitle:

(1) The commissioner shall:

(a) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer;

(b) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the ***impaired*** insurer to promptly

comply with the demand shall not excuse the association from the performance of its powers and duties under this subtitle; and

(c) In any liquidation or rehabilitation proceeding involving a domestic ***member*** insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner may be appointed conservator.

(2) The commissioner may suspend or revoke, after notice and hearing conducted in accordance with KRS Chapter 13B, the certificate of authority ***or license*** to transact ***business***~~[insurance]~~ in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. A forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(3) Any final action of the board of directors or the association may be appealed to the commissioner by any member insurer if the appeal is taken within sixty (60) days of its receipt of notice of the action being appealed. Any final order of the commissioner shall be subject to judicial review as set forth in Subtitle 2 of this chapter and KRS Chapter 13B.

(4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this subtitle.

➔Section 8. KRS 304.42-120 is amended to read as follows:

To aid in the detection and prevention of ***member*** insurer insolvencies or impairments:

(1) It shall be the duty of the commissioner:

(a) To notify the commissioners of all of the other states, territories of the United States and the District of Columbia when he or she takes any of the following actions against a member insurer:

1. Revocation of license;

2. Suspension of license;

3. Makes any formal order that ***the member insurer***~~[such company]~~ restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policy owners***,*** ***contract owners, certificate holders,*** or creditors.

Such notice shall be mailed to all commissioners within thirty (30) days following the action taken or the date on which such action occurs;

(b) To report to the board of directors when he or she has taken any of the actions set forth in paragraph (a) of this subsection or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner;

(c) To report to the board of directors when he or she has reasonable cause to believe from any examination, whether completed or in process, of any member insurer that ***the member***~~[such]~~ insurer may be an impaired or insolvent insurer; and

(d) To furnish to the board of directors the NAIC insurance regulatory information system information developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his or her duties and responsibilities regarding the financial condition of member ***insurers***~~[companies]~~ and ***insurers or health maintenance organizations***~~[companies]~~ seeking admission to transact~~[insurance]~~ business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation***,*** or conservation of any member insurer or germane to the solvency of any ***insurer or health maintenance organization***~~[company]~~ seeking to do~~[an~~

~~insurance]~~ business in this state. ***These***~~[Such]~~ reports and recommendations ***are confidential by law and*** shall not be considered public ***records***~~[documents]~~.

(4) The board of directors may, upon majority vote, notify the commissioner of any information indicating any member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of ***member*** insurer insolvencies.

➔Section 9. KRS 304.42-130 is amended to read as follows:

(1) A member insurer, other than a nonprofit hospital, medical, surgical, dental, or health service corporation, may offset its tax liability to this state imposed against it under KRS 136.320(3) and (4), 136.330, 136.340, or 136.350, whichever may be applicable, against the assessment described in subsection (8) of KRS 304.42-090 to the extent of twenty percent (20%) of the amount of the assessment for each of the five (5) calendar years following the year in which the assessment was paid. If a member insurer should cease doing business, all uncredited assessments may be credited against its tax liability for the year in which it ceases doing business.

(2) ***A member insurer that is exempt from taxes referenced in subsection (1) of this section may recoup its assessments by a surcharge on its premiums in a sum reasonably calculated to recoup the assessments over a reasonable period of time, as approved by the commissioner. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax, the medical loss ratio, or agent commission. If a member insurer collects excess surcharges, the member insurer shall remit the excess amount to the association, and the excess amount shall be applied to reduce future assessments in the appropriate account.***

(3) Any sums acquired by refund, pursuant to KRS 304.42-090(6), from the association which have theretofore been written off by contributing ***member*** insurers and offset against taxes as provided in this section, and are not then needed for purposes of this subtitle, shall be paid by the association to the commissioner and by the commissioner deposited with the State Treasurer for credit to the general fund of this state.

➔Section 10. KRS 304.42-140 is amended to read as follows:

(1) Nothing in this subtitle shall be construed to reduce the liability for unpaid assessments of the insureds on an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records shall be kept of all meetings of the board of directors to discuss the activities of the association in carrying out its powers and duties under KRS 304.42-080. The records of the association with respect to an impaired or insolvent insurer shall not be disclosed prior to the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, prior to the termination of the impairment or insolvency of the ***member*** insurer, or prior to the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities under KRS 304.42-150.

(3) For the purpose of carrying out its obligations under this subtitle, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to subsection (8) of KRS 304.42-080. Assets of the impaired or insolvent insurer attributable to covered policies ***and contracts*** shall be used to continue all covered policies ***and contracts*** and pay all contractual obligations of the impaired or insolvent insurer as required by this subtitle. Assets attributable to covered policies ***or contracts***, as used in this subsection, is that proportion of the assets which the reserves that should have been established for ***the***~~[such]~~ policies ***or contracts*** bear to the reserves that should have been established for all policies ***or contracts or health benefit plans***~~[of insurance]~~ written by the impaired or insolvent insurer.

(4) As a creditor of the impaired or insolvent insurer as established in subsection (3) of this section and consistent with KRS 304.33-440, the association and other similar associations shall be entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this subtitle. If the liquidator has not, within one hundred twenty (120) days of a final determination of insolvency of ***a member***~~[an]~~ insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association shall be entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

(5) (a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders***, enrollees, certificate holders, contract owners,*** and ***policy owners***~~[policyowners]~~ of the

insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such a determination, consideration shall be given to the welfare of the ***enrollees, certificate holders, contract owners, and*** policy owners of the continuing or successor ***member*** insurer;

(b) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association for funds expended in carrying out its powers and duties under KRS 304.42-080 with respect to ***the member***~~[such]~~ insurer have been fully recovered by the association.

(6) (a) If an order for liquidation or rehabilitation of ***a member***~~[an]~~ insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the ***member*** insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the ***member*** insurer on its capital stock, made at any time during the five (5) years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (b) to (d) of this subsection;

(b) No~~[such]~~ distribution shall be recoverable if the ***member*** insurer shows that when paid the distribution was lawful and reasonable, and that the ***member*** insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the ***member*** insurer to fulfill its contractual obligations;

(c) Any person who was an affiliate that controlled the ***member*** insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the ***member*** insurer at the time the distributions were declared, shall be liable up to the amount of distributions which would have been received if they had been paid immediately. If two (2) persons are liable with respect to the same distributions, they shall be jointly and severally liable;

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer;

(e) If any person liable under paragraph (c) of this subsection is insolvent, all its affiliates that controlled it at the time the dividend was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

➔Section 11. KRS 304.42-190 is amended to read as follows:

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

Signed by Governor March 25, 2019.

CHAPTER 71

(HB 385)

AN ACT relating to the Kentucky Law Enforcement Council.

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

➔Section 1. KRS 15.315 is amended to read as follows:

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The Attorney General of Kentucky, the commissioner of the Department of Kentucky State Police, the commissioner of the Department of Criminal Justice Training, the chief of police of the Louisville Metro Police Department, the chief of police of the Lexington-Fayette Urban County Division of Police, the director of the Southern Police Institute of the University of Louisville, the dean of the College of Justice and Safety of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, the Kentucky president of the Fraternal Order of Police, ***the president of the Kentucky Women's Law Enforcement Network,*** and the president of the Kentucky Sheriffs' Association shall be ex officio members of the council, as full voting members of the council by reason of their office. The United States attorneys for the Eastern and Western Districts of Kentucky may confer and designate a local law enforcement liaison who shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him or her and to vote on his or her behalf. Designees of the Department of Kentucky State Police, Department of Criminal Justice Training, Louisville Metro Police Department, and the Lexington-Fayette Urban County Division of Police shall be the head of the agency's training division or the agency's deputy chief or deputy commissioner.

(2) Twelve (12) members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, a county judge/executive, three (3) Kentucky sheriffs, a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he or she holds the office or employment by reason of which he or she was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council does not constitute a public office, and no member shall be disqualified from holding public office by reason of his membership.

Signed by Governor March 25, 2019.

CHAPTER 72

(HB 489)

AN ACT relating to the fiduciary and ethical duties of the boards of trustees for the Kentucky Retirement Systems and the Teachers' Retirement System, and declaring an emergency.

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

➔Section 1. KRS 61.650 is amended to read as follows:

(1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.

(b) 1. The board shall establish an investment committee whose membership shall be composed of the following:

a. The six (6) trustees appointed by the Governor pursuant to KRS 61.645(1)(e)5.; and

b. Three (3) trustees appointed by the board chair.

2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

(c) A trustee, officer, employee, or other fiduciary shall discharge duties with respect to the retirement system:

1. Solely in the interest of the members and beneficiaries;

2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;

3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;

4. Impartially, taking into account any differing interests of members and beneficiaries;

5. Incurring any costs that are appropriate and reasonable; and

6. In accordance with a good-faith interpretation of the law governing the retirement system.

(d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection~~[,]~~***:***

1. All ***internal investment staff and investment consultants***~~[individuals associated with the investment and management of retirement system assets, whether contracted investment advisors, board members, or staff employees,]~~ shall adhere to the Code of Ethics and Standards of Professional Conduct, ***and all board trustees shall adhere to***~~[the Asset Manager Code of Professional Conduct if the individual is managing retirement system assets, and]~~ the Code of Conduct for Members of a Pension Scheme Governing Body~~[if the individual is a board member]~~. All codes cited in this ***subparagraph***~~[paragraph]~~ are promulgated by the CFA Institute***; and***~~[.]~~

2. Investment managers shall comply with all applicable provisions of the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers.

(2) All securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished pursuant to written policies adopted by the board.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

(5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.

(6) All contracts for the investment or management of assets of the systems shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the systems shall comply:

(a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;

(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;

(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;

(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;

(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and

(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

➔Section 2. KRS 61.655 is repealed, reenacted, and amended to read as follows:

(1) No trustee or employee of the Kentucky Retirement Systems board shall:

(a) Have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board, save insofar as any such trustee or employee may be a member, employee, or beneficiary of the retirement system;

(b) Directly or indirectly, for himself or as an agent, use the assets of the retirement system, except to make current and necessary payments authorized by the board;

(c) Become an ***endorser*** ~~[indorser]~~ or surety or in any manner an obligor for moneys loaned by or borrowed from the board;

(d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;

(e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;

(f) Use confidential information acquired during his or her tenure with the retirement system to further his or her own economic interests or that of another person; or

(g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the retirement system. The provisions of this subsection shall not prohibit a trustee from serving as an employee of an agency participating in one (1) of the systems administered by Kentucky Retirement Systems.

(2) No trustee or employee of the board of trustees, who has served as a trustee or employee of the board on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the systems administered by Kentucky Retirement Systems.

(3) (a) No person who is serving as a member of the General Assembly or is a public servant as defined by KRS 11A.010(9) shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees, except that any such ***member*** ~~[trustee]~~ or public servant may be a member, employee, or beneficiary of the systems administered by Kentucky Retirement Systems.

(b) No person who was serving as a member of the General Assembly on or after July 1, 2017, or was serving as a public servant as defined by KRS 11A.010(9) on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the systems administered by Kentucky Retirement Systems.

➔Section 3. KRS 161.430 is amended to read as follows:

(1) ***(a)*** The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities.

(b) ***1.*** The board shall ***contract with*** ~~[employ]~~ experienced competent investment ***managers*** ~~[counselors]~~ to ***invest and manage assets of the system.*** ~~[advise it on all matters pertaining to investment, except]~~ The board may ***also*** employ qualified investment ***staff*** ~~[personnel]~~ to advise it on investment matters ***and to invest and manage assets of the system*** not to exceed fifty percent (50%) ~~[of the book value]~~of the system's assets. ***The board may contract with one (1) or more***

general investment consultants, as well as specialized investment consultants, to advise it on investment matters.

2. All ***internal investment staff and investment consultants*** ~~[individuals associated with the investment and management of retirement system assets, whether contracted investment advisors, board members, or staff employees,]~~ shall adhere to the Code of Ethics and Standards of Professional Conduct, ***and all board trustees shall adhere to*** ~~[the Asset Manager Code of Professional Conduct if the individual is managing retirement system assets, and]~~ the Code of Conduct for Members of a Pension Scheme Governing Body ~~[if the individual is a board member]~~, promulgated by the CFA Institute. ***Investment managers shall comply with the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers.***

3. ~~[Effective July 1, 1991,]~~No investment ***manager*** ~~[counselor]~~ shall manage more than forty percent (40%) of the funds of the retirement system.

(c) The board may appoint an investment committee ~~[consisting of the executive secretary and two (2) trustees]~~to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

(2) The board members and investment ***consultants*** ~~[counselor]~~ shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) In accordance with the laws, administrative regulations, and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management ***and consulting*** services***,*** the board ***shall*** ~~[must]~~ do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment ***manager*** ~~[counselor]~~ shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management ***and consulting*** services shall be financed from the guarantee fund in amounts approved by the board.

(b) An investment ***manager or consultant*** ~~[counselor]~~ appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment ***manager, consultant, or an affiliate, shall*** ~~[counselor must]~~ be:

1. Registered under the Federal Investment ***Advisers*** ~~[Advisors]~~ Act of 1940; or

2. A bank as defined by that Act; or

3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines~~[, by administrative regulation,]~~ and may permit its staff and investment ***managers who are***~~[counselors]~~ employed ***or under contract with the board*** pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

(5) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.

(6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the~~[Kentucky]~~ Teachers' Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

(7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:

(a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;

(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;

(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;

(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;

(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and

(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

➔Section 4. KRS 161.460 is repealed, reenacted, and amended to read as follows:

(1) No trustee or employee of the board of trustees shall:

(a) Have any interest, direct or indirect, in the gain or profits of any investment or any other legal, business, or financial transaction made by the board, except that any such trustee or employee may be a member, employee, or beneficiary of the plans administered by the board or authority;

(b) Directly or indirectly for himself or as an agent for another, use any of the assets of the retirement system in any manner except to make current and necessary payments authorized by the board;

(c) Become an endorser, surety, or obligor for moneys loaned to or borrowed from the board;

(d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;

(e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;

(f) Use confidential information acquired during his or her tenure with the retirement system to further his or her own economic interests or that of another person; or

(g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the retirement system. The provisions of this subsection shall not prohibit a trustee from serving as an employee of an agency participating in the Kentucky Teachers' Retirement System.

(2) No trustee or employee of the board of trustees, who has served as a trustee or employee of the board on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the Teachers' Retirement System.

(3) (a) No person who is serving as a member of the General Assembly or is a public servant as defined by KRS 11A.010(9) shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees, except that any such ***member***~~[trustee]~~ or public servant may be a member, employee, or beneficiary of the Teachers' Retirement System.

(b) No person who was serving as a member of the General Assembly on or after July 1, 2017, or was serving as a public servant as defined by KRS 11A.010(9) on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the Teachers' Retirement System.

➔Section 5. Whereas the ability of the state-administered retirement systems to invest the funds of each respective system on behalf of its members is one of its most important fiduciary obligations, an emergency is declared to exist, and this Act takes effect upon its passage and approval of the Governor or upon its otherwise becoming law.

Signed by Governor March 25, 2019.

CHAPTER 73

(HB 2)

AN ACT relating to relative and fictive kin caregivers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall develop custodial, permanency, and service options, including but not limited to monetary supports, that shall be available to a relative or fictive kin caregiver in the instance that a child, who would otherwise be placed in another out-of-home placement, is placed with him or her due to a cabinet finding that the child is abused, neglected, or dependent, as determined by an assessment or investigation conducted in accordance with this chapter.

(2) The cabinet shall disclose to a prospective relative or fictive kin caregiver each of the options established in subsection (1) of this section prior to the child's placement. The prospective relative or fictive kin caregiver shall select the option that best represents the level of care and support needed for the child while the child is receiving treatment and care in the placement with the relative or fictive kin caregiver.

(3) The custodial, permanency, and service options required by subsection (1) of this section shall reflect nationally recognized best practices.

(4) The cabinet shall maximize services available under federal and state law, including but not limited to Titles IV and XIX of the Social Security Act, to fulfill the requirements of this section.

(5) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔Section 2. KRS 405.023 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall create a centralized statewide service program that provides information and referrals through a statewide toll-free telephone number to grandparents and other caregivers who are caring for minors who are not their biological children.

(2) The program shall provide information on a wide variety of services, including but not limited to:

(a) Kentucky Transitional Assistance Program;

(b) Health care and services, including the Kentucky Children's Health Insurance Program;

(c) Educational services;

(d) Child care;

(e) Child support;

(f) Support groups;

(g) Housing assistance;

(h) Legal services; and

(i) Respite care for low-income kinship ***or fictive kin*** caregivers.

As used in this paragraph, "fictive kin" has the same meaning as in KRS 600.020.

(3) The cabinet may coordinate this program with the KyCARES Program.

(4) This program shall be known as the KinCare Support Program.

➔Section 3. KRS 605.120 is amended to read as follows:

(1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children who would otherwise be placed in foster care or who are placed by the cabinet in a foster home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.

(2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.

(3) The cabinet shall review reimbursement rates paid to foster parents on a biennial basis and shall issue a report in October of each odd-numbered year to the Child Welfare Oversight and Advisory Committee established in KRS 6.943 comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.

(4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.

(5) ***(a) The cabinet shall track and analyze data on relative and fictive kin caregiver placements. The data shall include but not be limited to"***

1. Demographic data on relative and fictive kin caregivers and children in their care;

2. Custodial options selected by the relative and fictive kin caregivers;

3. Services provisioned to relative and fictive kin caregivers and children in their care; and

4. Permanency benchmarks and outcomes for relative and fictive kin caregiver placements.

(b) By September 30, 2020, and upon request thereafter, the cabinet shall submit a report to the Governor, the Chief Justice of the Supreme Court, and the director of the Legislative Research Commission for distribution to the Child Welfare Oversight and Advisory Committee and the Interim Joint Committee on Health and Welfare and Family Services relating to the data tracking and analysis established in this subsection.[~~To the extent funds are available, the cabinet may establish a~~

~~program for kinship care, monetary provisions for relative caregivers, a guardianship assistance program under federal Title IV-E of the Social Security Act, and other relative caregiver and fictive kin services that support a safe, developmentally appropriate, and more permanent placement with a qualified relative or fictive kin for a child who would otherwise be placed in another out-of-home placement.~~

~~(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section~~].

(6) [~~(7)~~] Foster parents shall have the authority, unless the cabinet determines that the child's religion, race, ethnicity, or national origin prevents it, to make decisions regarding haircuts and hairstyles for foster children who are in their care for thirty (30) days or more.

➔Section 4. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:

(a) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;

(b) Is an habitual truant from school;

(c) Is an habitual runaway from his or her parent or other person exercising custodial control or supervision of the child;

(d) Is dependent, neglected, or abused;

(e) Has committed an alcohol offense in violation of KRS 244.085;

(f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or

(g) Is mentally ill.

(3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.

(4) Actions brought under subsection (2)(a), (b), (c), (e), and (f) of this section shall be considered to be status offense actions.

(5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.

(6) Actions brought under subsection (2)(g) of this section shall be considered to be mental health actions.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.

(8) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.

(9) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for ***the relative or fictive kin caregiver assistance*** ~~[kinship care]~~ as established in ***Section 1 of this Act*** ~~[KRS 605.120]~~, it may make temporary orders for the child's custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(10) The court of each county wherein a public offense, as defined in subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.

(11) Nothing in this chapter shall prevent the court from holding a child in contempt of court to enforce valid court orders previously issued by the court, subject to the requirements contained in KRS 610.265 and 630.080.

(12) Except as provided in KRS 635.060(4), 630.120(5), or 635.090, nothing in this chapter shall confer upon the District Court or the family division of the Circuit Court, as appropriate, jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or committed to or in the custody of the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or committed to or in the custody of the cabinet.

(13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(14) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, completes a disposition pursuant to KRS 635.060, or reaches the age of eighteen (18) years.

Signed by Governor March 25, 2019.

CHAPTER 74

(SB 6)

AN ACT relating to executive branch ethics.

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

➔Section 1. KRS 11A.040 is amended to read as follows:

(1) A public servant, in order to further his own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

(2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase

made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or

(d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction; or

(e) Sales of craft items to a state park by interim state employees designated as craftspersons under KRS 148.257.

(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within ***one (1) year*** ~~[six (6) months]~~ of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.

(7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within ***one (1) year*** ~~[six (6) months]~~ following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of ***one (1) year*** ~~[six (6) months]~~, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions, including but not limited to filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

(8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

(a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

(b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

(c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

(11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

➔Section 2. KRS 11A.050 is amended to read as follows:

(1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (g), and each candidate shall file a statement of financial disclosure with the commission, as follows:

(a) ***Each officer shall file the statement within thirty (30) days of employment as an officer, and each officer who occupies his or her position during any portion of a calendar year shall file the statement for that portion of the calendar year he or she occupied the position on or before April 15 of the following year, whether or not he or she remains an officer.***

(b) Each ~~[officer and each]~~public servant listed in KRS 11A.010(9)(a) to (g) who occupies his ***or her*** position during any portion of a calendar year shall file the statement for that portion of the calendar year he ***or she*** occupied the position on or before April 15 of the following year, whether or not he ***or she*** remains ***a***~~[an officer or]~~ public servant as listed in KRS 11A.010(9)(a) to (g).

(c)~~[(b)]~~ Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who does not remain an officer or public servant listed in KRS 11A.010(9)(a) to (g) for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant listed in KRS 11A.010(9)(a) to (g). The statement shall be filed with the commission within thirty (30) days after the date the person no longer serves as an officer or public servant listed in KRS 11A.010(9)(a) to (g).

(d)~~[(c)]~~ A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.

(2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.

(3) The statement shall include the following information for the preceding calendar year:

(a) Name and entire residential and business address of filer;

(b) Title of position or office whereby filing is required;

(c) Any other occupations of filer and spouse;

(d) Positions held by the filer or his ***or her*** spouse in any business, and the name and address of the business;

(e) ***Name and address of any employer by whom the filer was employed for the one (1) year period immediately prior to becoming an officer, not including those listed in paragraph (d) of this subsection;***

(f) Names and addresses of all businesses in which the filer, his ***or her*** spouse, or dependent children has or had an interest of ten thousand dollars ($10,000) at fair market value or five percent (5%) ownership interest or more;

(g)~~[(f)]~~ The name and address of any source of gross income exceeding one thousand dollars ($1,000) from any one (1) source to the filer, his ***or her*** spouse, or dependent child, as well as information concerning the nature of the business, and the form of the income;

~~[(g) Sources of retainers received by the filer or his spouse relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would serve in a decision-making capacity, including each source's name and address;]~~

(h) Any representation or intervention for compensation by the filer or his ***or her*** spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business;

(i) All positions of a fiduciary nature held by the filer or his ***or her*** spouse in a business, including the name and address of the business;

(j) Information, including a street address or location, regarding any real property in which there is an interest of ten thousand dollars ($10,000) or more held by the filer, his ***or her*** spouse, or dependent children;

(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars ($200) from any one (1) source to the filer, his ***or her*** spouse, or dependent children, except those from a member of the filer's family;~~[and]~~

(l) Identity, including an address, of creditors owed more than ten thousand dollars ($10,000), except debts arising from the purchase of consumer goods***; and***

(m) Names and addresses of family members of the filer or persons with whom the filer was engaged in a business who are registered as legislative agents under KRS 6.807 or executive agency lobbyists under KRS 11A.211.

Paragraphs (a) to ***(m)***~~[(l)]~~ of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

➔Section 3. KRS 11A.080 is amended to read as follows:

(1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall conduct a preliminary investigation of any alleged violation of this chapter.

(b) The preliminary investigation shall begin not later than ten (10) days after the next commission meeting following the receipt of the sworn complaint, or, if the investigation is initiated by the commission's own motion, not later than ten (10) days after the date of the adoption of the motion.

(c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the complaint, if one has been filed, or a statement of possible violations being investigated, and a general statement of the applicable law to the person alleged to have committed a violation.

(2) All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:

(a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings or, at its discretion, may at any time turn over to the Personnel Board, the Auditor of Public Accounts, or any other agency with jurisdiction to review, audit, or investigate the alleged offense, evidence which may be used by those agencies for investigative purposes;

(b) If the alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party;

(c) If the matter being investigated was referred to the commission from another state agency, the commission may inform the referring state agency of the status of any preliminary investigation and of any action taken on the matter.

(3) If the commission determines in the preliminary investigation that the facts are not sufficient to constitute a violation of this chapter, the commission shall immediately terminate the investigation and notify in writing the complainant, if any, and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.

(4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:

(a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or

(b) Initiate an administrative proceeding to determine whether there has been a violation.

(5) If the commission determines that a violation of this chapter has occurred in a case involving a contract with state government, the secretary of the Finance and Administration Cabinet may void any contract related to that case.

(6) If the commission determines that a violation of the provisions of KRS 11A.001 to 11A.130 has occurred, an employer of a former officer or public servant may be subject to a fine of up to one thousand dollars ($1,000) for each offense.

➔Section 4. KRS 11A.110 is amended to read as follows:

The commission shall perform the following additional duties:

(1) On its own initiative or upon a signed request in writing, issue and publish advisory opinions on the requirements of this chapter for those who wish to use the opinion to guide their own conduct. If requested in writing by the person seeking the advisory opinion, the commission shall not release that person's name;

(2) Provide a continuing program of education, assistance, and information to public servants, including, but not limited to, publishing and making available to the persons subject to this chapter and the public explanatory information concerning this chapter, the duties imposed by it, and the means of enforcement;

(3) Promulgate administrative regulations in accordance with KRS Chapter 13A to implement this chapter***, including, if required by the commission, electronic filing of disclosure statements by executive agency lobbyists, their employers, or real parties in interest***;

(4) Prescribe forms for statements required by this chapter and furnish the forms to persons required to file the statements. The forms shall be adopted as administrative regulations or adopted by reference in an administrative regulation;

(5) Prepare and publish a manual of guidelines setting forth uniform methods of reporting for use by persons required to file under this chapter;

(6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(7) Preserve the disclosure statements filed with it for four (4) years from the date of receipt;

(8) Make statements and reports filed with the commission available for public inspection and copying pursuant to KRS 61.870 to KRS 61.884 (Kentucky Open Records Law);

(9) Compile and maintain a current index of all statements filed with the commission to facilitate public access to the reports and statements;

(10) Prepare and publish reports as it may deem appropriate;

(11) Audit statements and reports filed with the commission;

(12) Make recommendations for legislation relating to governmental ethics and other matters included in this chapter as the commission deems desirable; and

(13) Prepare a biennial written report, no later than December 1 of each odd-numbered year, to the Legislative Research Commission, the Governor, and the public on the activities of the commission in the preceding two (2) fiscal years. The report shall contain the names and duties of each individual employed by the commission and a summary of commission determinations and advisory opinions. The commission shall prevent disclosure of the identity of a person involved in decisions or advisory opinions. The report may contain other information on matters within the commission's jurisdiction and recommendations for legislation as the commission deems desirable.

➔Section 5. KRS 11A.201 is amended to read as follows:

As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

(1) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(2) (a) "Expenditure" means any of the following that is made to, or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or a member of the staff of any of the officials listed in this paragraph:

1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;

2. A contract, promise, or agreement to make an expenditure; or

3. The purchase, sale, or gift of services or any other thing of value.

(b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection. "Expenditure" does not include a payment, contribution, gift, purchase, or any other thing of value that is made to or on behalf of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this paragraph who works for a state agency for which the executive agency lobbyist is not registered to influence;

(3) "Employer" means any person who engages an executive agency lobbyist;

(4) "Engage" means to make any arrangement, and "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity;

(5) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:

1. An executive agency lobbyist, his ***or her*** employer, a real party in interest, or a member of the immediate family of the executive agency lobbyist, his ***or her*** employer, or a real party in interest; and

2. Any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this subparagraph.

(b) "Financial transaction" does not include any transaction or activity described in paragraph (a) of this subsection if it is available to the general public on the same terms;

(6) "Executive agency" means the office of an elected executive official, a cabinet listed in KRS 12.250, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to his ***or her*** authority. "Executive agency" does not include any court or the General Assembly;

(7) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated***. This shall also include decisions made concerning:***

(a) The parameters of requests for information and requests for proposal;

(b) Drafting, adopting, or implementing a budget provision;

(c) Administrative regulations or rules;

(d) An executive order;

(e) Legislation or amendments thereto*; *or

(f) Other public policy decisions.

(8) (a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his ***or her*** main purposes ***regarding a substantial issue, including associations, coalitions, or public interest entities formed for the purpose of promoting or otherwise influencing executive agency decisions***~~[on a substantial basis]~~. The term "executive agency lobbyist" shall also include placement agents and unregulated placement agents.

(b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his ***or her*** fiduciary capacity as a representative of his ***or her*** agency, college, university, or political subdivision;

(9) (a) "Executive agency lobbying activity" means contacts made to promote***, advocate***, ***or*** oppose ***the passage***, ***modification, defeat, or executive approval or veto of any legislation*** or otherwise influence the outcome of an executive agency decision by direct communication with an elected executive official, the secretary of any cabinet listed in KRS 12.250, any executive agency official ***whether in the classified service or not***, or a member of the staff of any one of the officials listed in this paragraph.

(b) "Executive agency lobbying activity" does not include any of the following:

1. The action of any person having a direct interest in executive agency decisions, if the person acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any person listed in paragraph (a) of this subsection for the redress of grievances or other proper purposes;

2. Contacts made for the sole purpose of gathering information contained in a public record;~~[or]~~

3. Appearances before public meetings of executive agencies;

4. News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;

5. The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in subparagraph 4. of this paragraph;

6. Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;

7. Professional services in preparing executive agency decisions, preparing arguments regarding executive agency decisions, or in advising clients and rendering opinions regarding proposed or pending executive agency decisions, if the services are not otherwise connected to lobbying; or

8. Public comments submitted to an executive agency during the public comment period on administrative regulations or rules;

(10) "Executive agency official" means an officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency;

(11) "Aggrieved party" means a party entitled to resort to a remedy;

(12) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and Commissioner of Agriculture;

(13) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert;

(14) "Staff" means any employee of the office of the Governor, or a cabinet listed in KRS 12.250, whose official duties are to formulate policy and who exercises administrative or supervisory authority, or who authorizes the expenditure of state funds;

(15) "Real party in interest" means the person or entity on whose behalf an executive agency lobbyist is acting, if that person or entity is not the employer of the executive agency lobbyist;

(16) "Substantial ***issue***~~[basis]~~" means contacts which are intended to influence a decision that involves one or more disbursements of state funds in an amount of at least five thousand dollars ($5,000) per year***, or any budget provision, administrative regulation or rule, legislative matter or other public policy matter that financially impacts the executive agency lobbyist or his or her employer***;

(17) "Placement agent" means an individual or firm who is compensated or hired by an employer or other real party in interest for the purpose of influencing an executive agency decision regarding the investment of the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System assets; and

(18) "Unregulated placement agent" means a placement agent who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

➔Section 6. KRS 11A.211 is amended to read as follows:

(1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission within ten (10) days following the engagement of an executive agency lobbyist, an initial registration statement showing all of the following:

(a) The name, business address, and occupation of the executive agency lobbyist;

(b) The name and business address of the employer and of any real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. However, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed;

(c) A brief description of the executive agency decision to which the engagement relates;

(d) The name of the executive agency or agencies to which the engagement relates; ~~[and]~~

(e) Certification by the employer and executive agency lobbyist that the information contained in the registration statement is complete and accurate***;***

(f) Compensation paid to each executive agency lobbyist by each employer; and

(g) Certification that the employer and agent have complied with KRS 11A.236.

(2) In addition to the initial registration statement required by subsection (1) of this section, each executive agency lobbyist, employer, and real party in interest shall file with the commission, not later than the last day of July of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement***,*** ~~[and]~~that lists the specific executive agency decisions the executive agency lobbyist sought to influence under the engagement during the period covered by the updated statement***, and the compensation paid to each executive agency lobbyist by each employer***, and with it any statement of expenditures required to be filed by KRS 11A.216 and any details of financial transaction required to be filed by KRS 11A.221.

(3) If an executive agency lobbyist is engaged by more than one (1) employer, the executive agency lobbyist shall file a separate initial and updated registration statement for each engagement ***and list compensation paid to the executive agency lobbyist by each employer***. If an employer engages more than one (1) executive agency lobbyist, the employer shall file only one (1) updated registration statement under subsection (2) of this section, which shall contain the information required by subsection (2) of this section regarding all executive agency lobbyists engaged by the employer.

(4) (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2) of this section shall be reflected in the next updated registration statement filed under subsection (2) of this section.

(b) Within thirty (30) days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall file written notice of the termination with the commission.

(5) Each employer of one (1) or more executive agency lobbyists, and each real party in interest, shall pay a registration fee of five hundred dollars ($500) upon the filing of an updated registration statement. All fees collected by the commission under the provisions of this subsection shall be deposited in the State Treasury in a trust and agency fund account to the credit of the commission. These agency funds shall be used to supplement general fund appropriations for the operations of the commission and shall not lapse. No part of the trust and agency fund account shall revert to the general funds of this state.

(6) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card annually by the commission showing the executive agency lobbyist is registered. The registration card shall be valid from the date of its issuance through the thirty-first day of July of the following year.

(7) The commission shall review each registration statement filed with the commission under this section to determine if the statement contains all of the required information. If the commission determines the registration statement does not contain all of the required information or that an executive agency lobbyist, employer, or real party in interest has failed to file a registration statement, the commission shall send written notification of the deficiency by certified mail to the person who filed the registration statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the commission shall, not later than fifteen (15) days after receiving the notice, file a registration statement or an amended registration statement that includes all of the required information. If any person who receives a notice under this subsection fails to file a registration statement or an amended registration statement within the fifteen (15) day period, the commission may initiate an investigation of the person's failure to file. If the commission initiates an investigation pursuant to this section, the commission shall also notify each elected executive official and the secretary of each cabinet listed in KRS 12.250 of the pending investigation.

(8) In the biennial report published under KRS 11A.110(13), the commission shall, in the manner and form the commission determines, include a report containing statistical information on the registration statements filed under this section during the preceding biennium.

(9) If an employer who engages an executive agency lobbyist, or a real party in interest on whose behalf the executive agency lobbyist was engaged is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of an executive agency are distributed or allocated, the executive agency or any aggrieved party may consider the failure of the real party in interest, the employer, or the executive agency lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.

(10) Executive agency officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person, his ***or her*** employer, and any real party in interest are in compliance with this section.

➔Section 7. KRS 11A.236 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no person shall engage any persons to influence executive agency decisions or conduct executive agency lobbying activity for compensation that is contingent in any way on the outcome of an executive agency decision***, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded,*** and no person shall accept any engagement to influence executive agency decisions or conduct executive agency lobbying activity for compensation that is contingent in any way on the outcome of an executive agency decision***, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded. An employer who pays an executive agency lobbyist based on the awarding of a contract or payment of a percentage of a government contract awarded shall be barred from doing business with the Commonwealth for a period of five (5) years from the date on which such a payment is revealed to the Executive Branch Ethics Commission***.

(2) Subsection (1) of this section does not prohibit, and shall not be construed to prohibit:

(a) Any person from compensating his ***or her*** sales employees pursuant to an incentive compensation plan, such as commission sales, if the incentive compensation plan is the same plan used to compensate similarly situated sales employees who are not executive agency lobbyists; or

(b) Any person from engaging a placement agent to influence investment decisions of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System for compensation that is contingent on the outcome of investment decisions by the retirement systems' boards of trustees. The provisions of this paragraph shall not apply to unregulated placement agents.

Signed by Governor March 25, 2019.

CHAPTER 75

(SB 7)

AN ACT relating to employment.

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

➔Section 1. KRS 336.700 is amended to read as follows:

(1) As used in this section, "employer" means any person, either individual, corporation, partnership, agency, or firm, that employs an employee and includes any person, either individual, corporation, partnership, agency, or firm, acting directly or indirectly in the interest of an employer in relation to an employee; and "employee" means any person employed by or suffered or permitted to work for an employer.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary ***and except as provided in subsection (3) of this section***, no employer shall require as a condition or precondition of employment that any employee or person seeking employment waive~~[, arbitrate,]~~ or otherwise diminish any existing or future claim, right, or benefit to which the employee or person seeking employment would otherwise be entitled under any provision of the Kentucky Revised Statutes or any federal law.

(3) Notwithstanding subsection (2) of this section:

(a) Any employer may require an employee or person seeking employment to execute an agreement for arbitration, mediation, or other form of alternative dispute resolution as a condition or precondition of employment;

(b) Any employer may require a former employee to execute an agreement to waive an existing claim as a condition or precondition for the rehiring of the former employee as part of a settlement of pending litigation or other legal or administrative proceeding;

(c) Any employer may require an employee or person seeking employment to execute an agreement to reasonably reduce the period of limitations for filing a claim against the employer as a condition or precondition of employment, provided that the agreement does not apply to causes of action that arise under a state or federal law where an agreement to modify the limitations period is preempted or prohibited, and provided that such an agreement does not reduce the period of limitations by more than fifty percent (50%) of the time that is provided under the law that is applicable to the claim; and

(d) Any employer may require, as a condition or precondition of employment, an employee or person seeking employment to agree for the employer to obtain a background check or similar type of personal report on the employee or person seeking employment in conformance with a state or federal law that requires the consent of the individual prior to an employer's receipt or use of such a report.

(4) An arbitration agreement executed by an employer and an employee or a candidate for employment under paragraph (a) of subsection (3) of this section shall be subject to general contract defenses as may be applicable in a particular controversy, including fraud, duress, and unconscionability.

(5) In accordance with the Federal Arbitration Act, arbitration under paragraph (a) of subsection (3) of this section shall safeguard the effective vindication of legal rights, including:

(a) Providing a reasonable location for the arbitration;

(b) Mutuality of obligation sufficient to support the agreement to arbitrate;

(c) Ensuring procedural fairness for the parties to access arbitration, including a fair process for selecting an impartial arbitrator and the equitable, lawful allocation of arbitration costs between the parties;

(d) Ensuring that the parties to the agreement shall have at least one (1) channel for the pursuit of a legal claim, either by requiring the claim to be arbitrated individually pursuant to the agreement or otherwise; and

(e) Empowering the arbitrator to award all types of relief for a particular type of claim that would otherwise be available for a party through judicial enforcement, including punitive damages as provided by law.

(6) An arbitrator selected to arbitrate an agreement entered into pursuant to this section shall disqualify himself or herself if he or she has any of the conflicts enumerated under KRS 26A.015(2).

(7) If an arbitration agreement fails to specify the manner of procedure to govern the arbitration process, such as, for example, by failing to designate arbitral protocols promulgated by the American Arbitration Association or similar organization, then the arbitrator shall use the Kentucky Rules of Civil Procedure in the conduct of the arbitration.

(8) This section shall apply prospectively and retroactively. Any provision of an agreement executed prior to the effective date of this Act that violates the requirements of paragraph (c) of subsection (3) of this section shall be stricken from the agreement and shall not operate to invalidate the entire agreement.

(9) The provisions of this section shall not apply to collective bargaining agreements entered into between employers and the respective representatives of member employees.

➔Section 2. KRS 417.050 is amended to read as follows:

A written agreement to submit any existing controversy to arbitration or a provision in written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law for the revocation of any contract. This chapter does not apply to:

(1) Arbitration agreements ***contained within the collective bargaining agreements entered into by***~~[between]~~ employers and~~[employees or between their]~~ ***the*** respective representatives ***of member employees***; and

(2) Insurance contracts. Nothing in this subsection shall be deemed to invalidate or render unenforceable contractual arbitration provisions between two (2) or more insurers, including reinsurers.

Signed by Governor March 25, 2019.

CHAPTER 76

(HB 21)

AN ACT relating to family resource and youth services centers.

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

➔Section 1. KRS 156.496 is amended to read as follows:

(1) Family resource and youth services centers shall be designed to meet the needs of children and their families by providing services to enhance a student's ability to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services.

(2) Family resource centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals. Family resource centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After-school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Family literacy services as described in KRS 158.360 or a similar program designed to provide opportunities for parents and children to learn together and promote lifelong learning; and

(e) Health services or referrals to health services, or both.

(3) Youth services centers shall be located in or near each school in the Commonwealth, except elementary schools, in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals. Youth services centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:

(a) Referrals to health and social services;

(b) Career exploration and development;

(c) Summer and part-time job development for high school students;

(d) Substance abuse education and counseling; and

(e) Family crisis and mental health counseling.

(4) A grant program is hereby established to provide financial assistance to eligible school districts to establish or maintain family resource or youth services centers. The Cabinet for Health and Family Services shall award grants pursuant to KRS 156.4977. Funding provided to the Cabinet for Health and Family Services for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.

(5) A family resource or youth services center that receives funding for one (1) year or more shall not be considered ineligible for funding based solely on the percent of the student body eligible for free or reduced-price school meals unless the percent of the student body eligible for free or reduced-price school meals is below twenty percent (20%) for five (5) consecutive years.

(6) A school district shall not operate a family resource center or a youth services center that provides abortion counseling or makes referrals to a health care facility for the purpose of seeking an abortion.

(7) A school district may accept monetary donations for the operation and maintenance of family resource and youth services centers. Any donations given to the school district for the operation and maintenance of family resource and youth services centers shall be used only for the operation and maintenance of family resource and youth services centers, and for no other purpose.

Signed by Governor March 25, 2019.

CHAPTER 77

(SB 22)

AN ACT relating to the Interstate Medical Licensure Compact.

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

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

The Interstate Medical Licensure Compact is hereby enacted and entered into with all other jurisdictions that legally join in the Compact, which is, in form, substantially as follows:

ARTICLE I

PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at

the time of the physician-patient encounter and therefore requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

ARTICLE II

DEFINITIONS

As used in this compact:

(1) "Bylaws" means those bylaws established by the Interstate Commission pursuant to Article XI for its governance, or for directing and controlling its actions and conduct.

(2) "Commissioner" means the voting representative appointed by each member board pursuant to Article XI.

(3) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(4) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

(5) "Interstate Commission" means the interstate commission created pursuant to Article XI.

(6) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(7) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(8) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

(9) "Member state" means a state that has enacted the Compact.

(10) "Physician" means any person who:

(a) Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;

(b) Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three (3) attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(c) Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

(d) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(e) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(f) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(g) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(h) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

(i) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(11) "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state.

(12) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

(13) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(14) "State" means any state, commonwealth, district, or territory of the United States.

(15) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

ARTICLE III

ELIGIBILITY

(1) A physician shall meet the eligibility requirements as defined in Article II to receive an expedited license under the terms and provisions of the Compact.

(2) A physician who does not meet the requirements of Article II may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

ARTICLE IV

DESIGNATION OF STATE OF PRINCIPAL LICENSE

(1) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(a) The state of primary residence for the physician;

(b) The state where at least twenty-five percent (25%) of the practice of medicine occurs;

(c) The location of the physician's employer; or

(d) If no state qualifies under paragraph (a), paragraph (b), or paragraph (c), the state designated as state of residence for purpose of federal income tax.

(2) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (1).

(3) The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

ARTICLE V

APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(1) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(2) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission.

(a) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(b) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. sec. 731.202.

(c) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(3) Upon verification in subsection (2), physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to subsection (1), including the payment of any applicable fees.

(4) After receiving verification of eligibility under subsection (2) and any fees under subsection (3), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

(5) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(6) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

(7) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

ARTICLE VI

FEES FOR EXPEDITED LICENSURE

(1) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(2) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

ARTICLE VII

RENEWAL AND CONTINUED PARTICIPATION

(1) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician:

(a) Maintains a full and unrestricted license in a state of principal license;

(b) Has not been convicted or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(c) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and

(d) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(2) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(3) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(4) Upon receipt of any renewal fees collected in subsection (3), a member board shall renew the physician's license.

(5) Physician information collected by the Interstate Commission during the renewal process shall be distributed to all member boards.

(6) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

ARTICLE VIII

COORDINATED INFORMATION SYSTEM

(1) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under Article V.

(2) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(3) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(4) Member boards may report any nonpublic complaint, disciplinary, or investigatory information not required by subsection (3) to the Interstate Commission.

(5) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(6) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(7) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

ARTICLE IX

JOINT INVESTIGATIONS

(1) Licensure and disciplinary records of physicians are deemed investigative.

(2) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(3) A subpoena issued by a member state shall be enforceable in other member states.

(4) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(5) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

ARTICLE X

DISCIPLINARY ACTIONS

(1) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.

(2) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.

(3) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(a) Impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the Medical Practice Act of that state; or

(b) Pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(4) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any licenses issued to the physician by any other member boards shall be suspended, automatically and immediately without further action necessary by the other member boards, for ninety (90) days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the Medical Practice Act of that state.

ARTICLE XI

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

(1) The member states hereby create the "Interstate Medical Licensure Compact Commission."

(2) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(3) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(4) The Interstate Commission shall consist of two (2) voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one (1) representative from each member board. A commissioner shall be an:

(a) Allopathic or osteopathic physician appointed to a member board;

(b) Executive director, executive secretary, or similar executive of a member board; or

(c) Member of the public appointed to a member board.

(5) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the Commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(6) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(7) Each commissioner participating at a meeting of the Interstate Commission is entitled to one (1) vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (4).

(8) The Interstate Commission shall provide public notice of all meetings and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds (2/3) vote of the commissioners present that an open meeting would be likely to:

(a) Relate solely to the internal personnel practices and procedures of the Interstate Commission;

(b) Discuss matters specifically exempted from disclosure by federal statute;

(c) Discuss trade secrets, commercial, or financial information that is privileged or confidential;

(d) Involve accusing a person of a crime, or formally censuring a person;

(e) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Discuss investigative records compiled for law enforcement purposes; or

(g) Specifically relate to the participation in a civil action or other legal proceeding.

(9) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(10) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

(11) The Interstate Commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive committee shall oversee the administration of the Compact including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

(12) The Interstate Commission may establish other committees for governance and administration of the Compact.

ARTICLE XII

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the duty and power to:

(1) Oversee and maintain the administration of the Compact;

(2) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;

(3) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions;

(4) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(5) Establish and appoint committees, including but not limited to an executive committee as required by Article XI, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;

(6) Pay, or provide for the payment of, the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission;

(7) Establish and maintain one (1) or more offices;

(8) Borrow, accept, hire, or contract for services of personnel;

(9) Purchase and maintain insurance and bonds;

(10) Employ an executive director who shall have the powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;

(11) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(12) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of them in a manner consistent with the conflict of interest policies established by the Interstate Commission;

(13) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;

(14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(15) Establish a budget and make expenditures;

(16) Adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(17) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission;

(18) Coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation;

(19) Maintain records in accordance with the bylaws;

(20) Seek and obtain trademarks, copyrights, and patents; and

(21) Perform such functions as may be necessary or appropriate to achieve the purposes of the Compact.

ARTICLE XIII

FINANCE POWERS

(1) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment shall be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(2) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(3) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(4) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the Interstate Commission.

ARTICLE XIV

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within twelve (12) months of the first Interstate Commission meeting.

(2) The Interstate Commission shall elect or appoint annually from among its commissioners a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission.

(3) Officers selected in subsection (2) shall serve without remuneration from the Interstate Commission.

(4) The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(a) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of their employment or duties for acts, errors, or omissions occurring within their state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(b) The Interstate Commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(c) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XV

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

(2) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(3) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

ARTICLE XVI

OVERSIGHT OF INTERSTATE COMPACT

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(2) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(3) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

ARTICLE XVII

ENFORCEMENT OF INTERSTATE COMPACT

(1) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(2) The Interstate Commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XVIII

DEFAULT PROCEDURES

(1) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Interstate Commission promulgated under the Compact.

(2) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and

(b) Provide remedial training and specific technical assistance regarding the default.

(3) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(4) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(5) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(6) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(7) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

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

ARTICLE XIX

DISPUTE RESOLUTION

(1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

(2) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

ARTICLE XX

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(1) Any state is eligible to become a member state of the Compact.

(2) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

(3) The governors of nonmember states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the Compact by all states.

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

ARTICLE XXI

WITHDRAWAL

(1) Once effective, the Compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

(2) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(4) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (3).

(5) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Interstate Commission.

(7) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

ARTICLE XXII

DISSOLUTION

(1) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one (1) member state.

(2) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XXIII

SEVERABILITY AND CONSTRUCTION

(1) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(2) The provisions of the Compact shall be liberally construed to effectuate its purposes.

(3) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XXIV

BINDING EFFECT OF COMPACT AND OTHER LAWS

(1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(2) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

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

(4) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(5) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Signed by Governor March 25, 2019.

CHAPTER 78

(SB 28)

AN ACT relating to notice of environmental incidents.

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

➔SECTION 1. A NEW SECTION OF KRS 224.1-400 TO 224.1-415 IS CREATED TO READ AS FOLLOWS:

Within seven (7) days of declaring that an environmental emergency exists that requires implementation of a contingency plan established in KRS 224.1-400(14), the cabinet shall send a copy of the declaration of emergency to the county/judge executive of the county or the chief executive officer of the urban-county government within which the environmental emergency exists.

➔SECTION 2. A NEW SECTION OF KRS 224.43-310 TO 224.43-380 IS CREATED TO READ AS FOLLOWS:

Within seven (7) days of issuing a notice of violation to a contained landfill operating as a municipal solid waste disposal facility as defined in KRS 224.1-010 for noncompliance with a condition of its permit issued by the Division of Waste Management where the noncompliance has off-site impacts, the cabinet shall send a copy of the notice of violation to the county/judge executive of the county or the chief executive officer of the urban-county government within which the contained landfill is located.

Signed by Governor March 25, 2019.

CHAPTER 79

(HB 26)

AN ACT relating to procurement.

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

➔Section 1. KRS 45A.385 is amended to read as follows:

The local public agency may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed ***thirty thousand*** ~~[twenty thousand]~~ dollars ***($30,000)*** ~~[($20,000)]~~ if small purchase procedures are in writing and available to the public.

➔Section 2. KRS 45A.430 is amended to read as follows:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the local public agency to exceed ***one hundred thousand*** ~~[twenty-five thousand]~~ dollars ***($100,000)*** ~~[($25,000)]~~. Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the local public agency. Nothing herein prevents the requirement of such bonds on construction contracts under ***one hundred thousand*** ~~[twenty-five thousand]~~ dollars ***($100,000)*** ~~[($25,000)]~~ when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, noncompliance requires that the bid be rejected, provided, however, that the local public agency may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

➔Section 3. KRS 45A.435 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***one hundred thousand***~~[twenty-five thousand]~~ dollars ***($100,000)***~~[($25,000)]~~, the following bonds shall be furnished to the local public agency, and shall become binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the local public agency executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the local public agency, executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, for the protection of all persons supplying labor and material to the contractor or his subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) Nothing in this section shall be construed to limit the authority of the local public agency to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section, including, but not limited to, bonds for the payment of taxes and unemployment insurance premiums.

➔Section 4. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ***thirty thousand***~~[twenty thousand]~~ dollars ***($30,000)***~~[($20,000)]~~ without first making newspaper advertisement for bids. This subsection shall not apply to the transfer of property between governmental agencies as authorized in KRS 82.083(4)(a).

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ***thirty thousand***~~[twenty thousand]~~ dollars ***($30,000)***~~[($20,000)]~~, the fiscal court requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Office of Material and Procurement Services in the Office of the Controller within the Finance and Administration Cabinet or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

(5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

Signed by Governor March 25, 2019.

CHAPTER 80

(HJR 37)

A JOINT RESOLUTION designating Radcliff, Kentucky, as the "Knife Capital of Kentucky."

WHEREAS, Red Hill Cutlery in Radcliff, Kentucky, is a family-owned and -operated business that has been in the knife business for almost 15 years, stocking over 400,000 knives daily; and

WHEREAS, Radcliff is also home to four other knife dealers; and

WHEREAS, Red Hill Cutlery was created with the goal to be a destination for collectors and enthusiasts rather than just another retail store; and

WHEREAS, with over 3,000 square feet of sales and museum floor space, Red Hill Cutlery is the largest knife showroom, store, and museum in the state and is ranked among the top ten in the United States; and

WHEREAS, Red Hill Cutlery hosts thousands of visitors annually; and

WHEREAS, Red Hill Cutlery receives over 8,000 online sales and generates approximately $1 million in annual sales, boosting the local and state economy; and

WHEREAS, Red Hill Cutlery is home to the Kentucky Museum of American Pocketknives, a historical display of W.R. Case & Sons Cutlery items; and

WHEREAS, for three generations, the Basham family, which owns Red Hill Cutlery, has created strong bonds in the community for over 55 years;

NOW, THEREFORE,

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

➔Section 1. Radcliff, Kentucky, is named and designated the official "Knife Capital of Kentucky."

➔Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Dean Schamore for delivery.

Signed by Governor March 25, 2019.

CHAPTER 81

(SJR 44)

A JOINT RESOLUTION designating honorary names for various roads and bridges and directing the placement of honorary roadside signs.

WHEREAS, Jim Bunning, former United States Senator, Hall of Fame pitcher, and beloved son of this great Commonwealth, departed this earthly life and entered into the kingdom of Heaven on May 26, 2017, leaving his family, friends, and all those whose lives he touched in solemn mourning; and

WHEREAS, Jim Bunning was born in Southgate, Kentucky, on October 23, 1931, the cherished son of Louis and Gladys Best Bunning; and

WHEREAS, after pitching for his alma mater Xavier University, Jim Bunning went on to pitch for 17 total seasons in Major League Baseball with four different clubs: the Detroit Tigers, the Philadelphia Phillies, the Pittsburgh Pirates, and the Los Angeles Dodgers. He would become just the second pitcher in Major League Baseball

history to win at least 100 games, record 1,000 strikeouts, and throw no-hitters in both the American and National Leagues. He ended his extraordinary career in 1971 having recorded 2,855 strikeouts, second only to the great Walter Johnson; and

WHEREAS, Jim Bunning was elected to the Major League Baseball Hall of Fame in Cooperstown, New York, in 1996; and

WHEREAS, Jim Bunning began his career in public service on the nonpartisan Fort Thomas City Council in 1977. It was his first foray into politics, and it would become the foundation of the next two decades of his life; and

WHEREAS, in 1979, Jim Bunning was elected to the Kentucky State Senate. He would go on to become Minority Leader, unseating his future running mate for Governor, Jefferson County's Eugene Stuart; and

WHEREAS, after his loss to Martha Layne Collins in the 1983 gubernatorial race, Jim Bunning was elected to the United States House of Representatives in 1986. He served six terms in the House and was elected to the United States Senate in 1998; and

WHEREAS, a staunch and outspoken conservative, Jim Bunning became both a tireless advocate for the conservative cause and a fearless, tenacious fighter who opposed such issues as illegal immigration and the policies of the Federal Reserve; and

WHEREAS, Jim Bunning retired in 2010, drawing to a close an extraordinary career in public service; and

WHEREAS, Jim Bunning is survived by his wife, Mary; sons, David, Jim, Bill, and Mark; daughters, Barb, Joan, Cat, Bridget, and Amy; several grandchildren and great-grandchildren; and a host of other family members, friends, and loved ones who will dearly miss his presence in their lives; and

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways and erecting commemorative roadway signs in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of accomplishments that made them deserving of the honor; and

WHEREAS, these individuals have included former Governors, former members of the General Assembly, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The Transportation Cabinet shall designate Interstate 471 in its entirety within the Commonwealth in honor and memory of James Paul David "Jim" Bunning and shall, within 30 days of the effective date of this Resolution, erect signage for the highway designation that reads:

"Jim Bunning Memorial Highway

Former U.S. Senator

& Major League Baseball Hall of Famer."

➔Section 2. The Transportation Cabinet shall designate the portion of Kentucky Route 20 (Petersburg Road) in Boone County, from the intersection with Bullittsville-Francisville Road, at mile point 14.525, to the intersection with Kentucky Route 237, at mile point 16.622, as the "Irene Patrick Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 3. The Transportation Cabinet shall designate United States Highway 421 in Leslie County, from its intersection with Stone Coal Branch Road to its intersection with Calvin Drive, as the "Charles and Ruth Roark Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage. The designation under this section shall supersede any previous designations for this section of highway.

➔Section 4. The Transportation Cabinet shall designate a portion of Kentucky Route 1083 in Warren County, from the intersection with United States Route 68, at mile point 0, to the intersection with Tommy Smith Road, at mile point 2.515, as the "First Lt. Robert Henderson II Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 5. The Transportation Cabinet shall designate Kentucky Route 17X, the Independence Bypass, in Kenton County as the "Jed K. Deters Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 6. The Transportation Cabinet shall designate the Russellville Bypass in Logan County, United States Route 79, from mile point 10.7 to mile point 16.184, as the "Dr. Martin Luther King, Jr. Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 7. The Transportation Cabinet shall designate Kentucky Route 55 in Shelby and Henry Counties, from the intersection with Kentucky Route 43 in Shelbyville to the city limits of Eminence, as the "Marshall Long Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 8. The Transportation Cabinet shall designate Kentucky Route 259 in Grayson County, from the intersection with Kentucky Route 3155, to the Breckenridge County line, as the "John Stephen Asher Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 9. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect honorary highway signs on United States Route 23, at both locations where it enters Pike County, that read "Home of Emma Johns, 2019 Miss Kentucky Teen USA." The signs erected under this Resolution shall remain in place for a minimum of one year.

➔Section 10. The Transportation Cabinet shall designate Kentucky Route 331 in Daviess County as the "C. Waitman Taylor, Jr. Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 11. The Transportation Cabinet shall designate a portion of Kentucky Route 371 (Buttermilk Pike) in Kenton County, from the intersection with United States Route 25, at mile point 1.817, to the I-71/I-75 overpass at mile point 2.887, as the "Senator Richard L. 'Dick' Roeding Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs.

➔Section 12. The Transportation Cabinet shall designate Kentucky Route 55 in Marion County, from the Marion/Washington county line to its intersection with Kentucky Route 2154, as the "Dr. Salem George Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 13. The Transportation Cabinet shall designate Kentucky Route 956 in Madison County, from the intersection with Interstate 75 to the intersection with United States Route 25, as the "Constable J.B. Marcum Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 14. The Transportation Cabinet shall designate Kentucky Route 1577 in Pulaski County as the "Ward Correll Memorial Highway" and shall within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 15. The Transportation Cabinet shall designate Kentucky Route 1247 in Pulaski County, in the community of Eubank, as the "Frey Todd Memorial Highway" and shall within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 16. The Transportation Cabinet is directed to honor the Clay County Middle School Cheer Team by placing honorary signs near the intersection of Kentucky Route 80 and the Hal Rogers Parkway, that read "Home of the Clay County Middle School Cheer Team 2019 UCA National Champions." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 17. The Transportation Cabinet shall designate United States Highway 25 in Laurel County, from its intersection with Kentucky Route 9006 to the Rockcastle River Bridge, as the "Roscoe Robinson Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 18. The Transportation Cabinet is hereby directed to place signs on the Interstate 264 overpass over Bank Street in Jefferson County that read "Judge Benjamin Shobe Memorial Overpass" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 19. The Transportation Cabinet is hereby directed to place signs on the Interstate 264 overpass over Greenwood Avenue in Jefferson County that read "Sterling Neal Sr. and Jr. Memorial Overpass" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 20. The Transportation Cabinet is hereby directed to place signs on the Interstate 264 overpass over Virginia Avenue in Jefferson County that read "Rev. Dr. James A. Crumlin Sr. Memorial Overpass" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage. The designation under this section shall supersede any previous designations for this section of highway.

➔Section 21. The Transportation Cabinet shall designate the Laurel River Bridge on Kentucky Interstate 75 in Laurel County as the "SFC Lance S. Cornett Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 22. The Transportation Cabinet shall designate the bridge on United States Route 68 in Mason County over the North Fork of the Licking River at mile point 8.555 (Bridge ID# 081B00013N) as the "Billy F. Ross Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 23. The Transportation Cabinet is directed to honor the Knox Central High School Cheer Squad by placing honorary signs on United States Highway 25E, at the Knox County/Bell County line and the Knox County/Laurel County line that read, "Home of the Knox Central High School Cheer Squad, 2018 Class 2A State Champions." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 24. The Transportation Cabinet shall designate the bridge on United States Route 27 in Pendleton County over the South Fork of the Licking River (Bridge Number 096B00002N) as the "John Ayers Merritt Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 25. The Transportation Cabinet shall designate the overpass on Interstate 69 at mile marker 71.784 in Lyon County as the "Investigator Brandon Thacker Memorial Overpass" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 26. The Transportation Cabinet shall designate Kentucky Route 32 in Rowan County, from its intersection with Messer Road to its intersection with Kentucky Route 173, as the "Joshua Ferguson 'EFD 722' Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 27. The Transportation Cabinet is directed to honor Alvin Stamper by placing honorary signs in Laurel County, with the location to be determined by the Highway District 11 Chief District Engineer, which read "Home of the 2006 to 2018 Garrard County Tobacco Cutting Champion, Alvin Stamper." The signs erected under this section shall remain in place for at least one year from the date of their placement.

➔Section 28. The Transportation Cabinet is hereby directed to honor Roby Mullins by erecting a sign on United States Route 27 at the Lincoln County/Garrard County line that reads "Home of Roby Mullins, 2018 NASP 3D World Archery Champion and 3D Outdoor World Archery Champion." The sign shall be erected within 30 days of the effective date of this Resolution, and shall remain in place for at least one year from the date of its placement.

➔Section 29. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect highway signs on Kentucky Route 39 near Garrard County High School that read "GCHS, Home of 2019 National Beta Convention Competition Qualifiers Alex Canada, Dylan Driskell, Maddie Jordan, and Emma Warren." The signs placed under this section shall remain in place for at least one year.

➔Section 30. The Transportation Cabinet shall designate a portion of Kentucky Route 80 in Leslie County, from the intersection with Daisy Lane to the intersection with United States Route 421, as the "SFC Lida Feltner Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 31. The Transportation Cabinet shall designate the bridge on Kentucky Route 2057 over Cutshin Creek in Leslie County (Bridge # 066B00055N) as the "Cpl. Willie Boggs Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 32. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect honorary signs on Kentucky Route 461 near Rockcastle County High School that read "RCHS FFA Small Engine Team, 2018 State Champions." The signs erected under this Resolution shall remain in place for one year.

➔Section 33. The Transportation Cabinet is hereby directed to honor McKenzie Settles by erecting a sign on United States Route 27 at the Boyle County/Lincoln County line that reads, "Home of McKenzie Settles, 2018 NASP/IBO 3D State Archery Champion." The sign shall be erected within 30 days of the effective date of this Resolution, and shall remain in place for at least one year from the date of its placement.

➔Section 34. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect a sign on United States Route 27 at the Lincoln County/Pulaski County line that reads "Home of Ember Genco, 2018 Little Miss United States." The sign erected under this Resolution shall remain in place for a minimum of one year.

➔Section 35. The Transportation Cabinet shall designate a portion of New Kentucky Route 98 in Allen County, from mile point 3.3 to mile point 4.5, as the "Barbara Gibbs Mays Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signs.

➔Section 36. The Transportation Cabinet shall designate the bridge on Kentucky Route 100 in Allen County, at mile point 9.155, that spans Trammel Creek, as the "Magistrate Roman Perry, Jr. Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs.

➔Section 37. The Transportation Cabinet is hereby directed to place signs in Laurel County, on Kentucky Route 9006 in front of North Laurel Middle School and on Kentucky Route 472 near the school, which read "Home of the North Laurel Middle School 6th-Grade Girls and Boys Basketball Teams 2019 KBC State Champs." The signs under this section shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 38. The Transportation Cabinet is directed to honor Katie Bouchard by placing honorary signs on United States Highway 231 at the Daviess County/Spencer County, Indiana line, and on Kentucky Route 54 near its intersection with Kentucky Route 1456 that read "Home of Katie Bouchard, Miss Kentucky 2018." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 39. The Transportation Cabinet shall designate Kentucky Route 144 in Daviess County, from its intersection with Kentucky Route 603 to its intersection with United States Highway 60, as the "Lance Corporal Michael Wayne Simon Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 40. The Transportation Cabinet shall designate Kentucky Route 2565 in Lawrence County as the "Preece Brothers Memorial Highway" and shall within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 41. The Transportation Cabinet shall erect honorary signs on Interstate 75 near exit 11 that read "Williamsburg, Home of Nick Wilson, Winner of 'Survivor: David and Goliath'." The signs under this section shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year.

➔Section 42. The Transportation Cabinet shall erect honorary signs on United States Route 31W near South Warren High School that read "South Warren Spartans, 2018 KHSAA Class 5A Football Champions." The signs under this section shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year.

➔Section 43. The Transportation Cabinet shall designate Kentucky Route 582 in Knott County, from its intersection with Mallet Fork Road to its intersection with Honeycutt Road, as the "Robert and Nasreeda Short Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage. The designation under this section shall supersede any previous designations for this section of highway.

➔Section 44. The Transportation Cabinet shall designate the bridge on Kentucky Route 899 in Knott County, at mile point 11.807 (Bridge # 060B00041N) as the "Dewayne Hall Memorial Bridge, KIA Korean War" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs.

➔Section 45. The Transportation Cabinet shall designate the bridge on Kentucky Route 22 over the Kentucky River between Lockport and Gratz (Bridge # 052B00083N) as the "Alan Thomas Truman Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs.

➔Section 46. The Transportation Cabinet shall erect highway signs on Kentucky Route 139 in Trigg County, at the intersections with Hayden Street and Brown Street, that read "Cadiz, Home of Genesis Express, Inc., Serving

the Community for Over 30 Years." The signs under this section shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year.

➔Section 47. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect highway signs on United States Route 60 in Boyd County, near the entrance to Boyd County High School, that read "Home of Savannah Wheeler, 2019 Kentucky Miss Basketball." The signs erected in accordance with this section shall remain in place for a minimum of one year.

➔Section 48. The Transportation Cabinet shall designate Kentucky Route 90X in Wayne County, from the intersection with Kentucky Route 92 to the intersection with Barnes Drive, as the "Gene 'Cedar' Wright Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

Signed by Governor March 25, 2019.

CHAPTER 82

(HB 46)

AN ACT relating to the display of the national motto in public schools.

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

➔Section 1. KRS 158.195 is amended to read as follows:

(1) ***(a)*** ***Beginning in the 2019-2020 school year, local boards shall require each public elementary and secondary school to display the national motto of the United States, "In God We Trust," in a prominent location in the school.***

(b) ***The display required in paragraph (a) of this subsection may take the form of but is not limited to a mounted plaque or student artwork.***

(c) ***For purposes of this section, "prominent location" means a school entryway, cafeteria, or common area where students are likely to see the national motto.***

(2) Local boards may allow any teacher or administrator in a public school district of the Commonwealth to read or post in a public school building, classroom, or event any excerpts or portions of: the national motto; the national anthem; the pledge of allegiance; the preamble to the Kentucky Constitution; the Declaration of Independence; the Mayflower Compact; the writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States; United States Supreme Court decisions; and acts of the United States Congress including the published text of the Congressional Record. There shall be no content-based censorship of American history or heritage in the Commonwealth based on religious references in these writings, documents, and records.

Signed by Governor March 25, 2019.

CHAPTER 83

(HB 49)

AN ACT relating to the levy of property taxes.

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

➔Section 1. KRS 132.017 is amended to read as follows:

(1) As used in this section, "local governmental entity" includes a county fiscal court and legislative body of a city, urban-county government, consolidated local government, charter county government, ***unified local government,*** or other taxing district.

(2) (a) ***1.*** ***Except as provided in subparagraph 2. of this paragraph, the***~~[That]~~ portion of a tax rate levied by an ordinance, order, resolution, or motion of a local governmental entity or district board of education subject to recall as provided for in KRS 68.245, 132.023, 132.027, and 160.470, shall go into effect forty-five (45) days after its passage.

2. ***When a tax rate is levied by a district board of education or other taxing district that is primarily located in a county containing an urban-county government or consolidated local government, the portion of a tax rate levied by an ordinance, order, resolution, or motion of a district board of education or other taxing district subject to recall as provided for in KRS 68.245, 132.023, 132.027, and 160.470, shall go into effect fifty (50) days after its passage.***

(b) During ***the same forty-five (45) day or fifty (50) day time period provided by paragraph (a) of this subsection***~~[the forty-five (45) days next following the passage of the ordinance, order, resolution, or motion]~~, any five (5) qualified voters***,*** who reside in the area where the tax levy will be imposed***,*** may commence petition proceedings to protest the passage of the ordinance, order, resolution, or motion by filing ***an affidavit*** with the county clerk***. The affidavit shall state:***

1. ***The five (5) qualified voters***~~[an affidavit stating that they]~~ constitute the ***members of the*** petition committee***;***

2. ***The petition committee*** ~~[and that they]~~will be responsible for circulating the petition***;***

3. ***The petition committee will file the petition*** ~~[and filing it]~~in the proper form within ***the same forty-five (45) day or fifty (50) day time period provided by paragraph (a) of this subsection;***~~[forty-five (45) days from the passage of the ordinance, order, resolution, or motion.]~~

4. The~~[affidavit shall state their]~~ names and addresses ***of the petition committee members;***~~[and]~~

5. ~~[specify]~~The address to which all notices to the committee are to be sent***; and***~~[.]~~

6. ***For petition committees filing petitions in response to a tax rate levied by a district board of education or other taxing district that is primarily located in a county containing an urban-county government or a consolidated local government, whether or not the petition committee is willing to incur all of the expenses associated with electronic petition signatures. If the petition committee is not willing to incur all of the expenses, then electronic petition signatures shall not be allowed for the petition.***

(c) Upon receipt of the affidavit, the county clerk shall ***immediately***:

1. ~~[At the time of filing of the affidavit,]~~Notify the petition committee of all statutory requirements for the filing of a valid petition under this section;

2. ~~[At the time of the filing of the affidavit,]~~Notify the petition committee that the clerk will publish a notice identifying the tax levy being challenged and providing the names and addresses of the petition committee in a newspaper of general circulation within the county, if***:***

   a. ***There is a newspaper within the county in which to publish the notice; and***

   b. ~~[such publication exists, if]~~The petition committee remits an amount equal to the cost of publishing the notice determined in accordance with the provisions of KRS 424.160 at the time of the filing of the affidavit.

   If the petition committee elects to have the notice published, the clerk shall publish the notice within five (5) days of receipt of the affidavit; and

3. Deliver a copy of the affidavit to the appropriate local governmental entity or district board of education.

(d)~~[(c)]~~ The petition shall be filed with the county clerk within ***the same forty-five (45) day or fifty (50) day time period provided by paragraph (a) of this subsection***~~[forty-five (45) days of the passage of the ordinance, order, resolution, or motion]~~ ***and meet the following requirements:***~~[.]~~

1. All papers of the petition shall be ***substantially*** uniform in size and style and shall be assembled in one (1) instrument for filing***;***~~[.]~~

2. ***For a district board of education or other taxing district that is primarily located in a county containing an urban-county government or consolidated local government, each sheet of the petition may contain the names of voters from more than one (1) voting precinct, and for a***

district board of education or other taxing district that is not primarily located in a county containing an urban-county government or consolidated local government, each sheet of the petition shall contain the names of voters from~~[Each sheet of the petition shall contain the names of voters from]~~ one (1) voting precinct***;***~~[only, and shall include the name, number and designation of the precinct in which the voters signing the petition live. The inclusion of an invalid signature on a page shall not invalidate the entire page of the petition, but shall instead result in the invalid signature being stricken and not counted.]~~

3. Each ***nonelectronic petition*** signature shall be executed in ink or indelible pencil***;***

4. Each electronic petition signature shall comply with the requirements of the Uniform Electronic Transactions Act, KRS 369.101 to 369.120;

5. Each electronic and nonelectronic petition signature~~[and]~~ shall be followed by the printed name, street address, ~~[and]~~Social Security number or birthdate***, and the name and number of the designated voting precinct*** of the person signing***; and***~~[.]~~

6. The petition shall be signed by a number of registered and qualified voters residing in the affected jurisdiction equal to at least ten percent (10%) of the total number of votes cast in the last preceding presidential election. ***Electronic petition signatures shall be included in determining whether the required number of petition signatures have been obtained when the expenses associated with the electronic petition signatures have been incurred in accordance with paragraph (b)6. of this subsection, the electronic petition signatures comply with the requirements of this subsection, and the petition was filed in response to a tax rate levied by a district board of education or other taxing district that is primarily located in a county containing an urban-county government or consolidated local government. The inclusion of an invalid electronic or nonelectronic petition signature on a page shall not invalidate the entire page of the petition, but shall instead result in the invalid petition signature being stricken and not counted.***

(e)~~[(d)]~~ Upon the filing of the petition with the county clerk, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (3) of this section is held, or until the petition is finally determined to be insufficient and no further action may be taken pursuant to paragraph ***(i)***~~[(h)]~~ of this subsection.

(f)~~[(e)]~~ The county clerk shall immediately notify the presiding officer of the appropriate local governmental entity or district board of education that the petition has been received and shall, within thirty (30) days of the receipt of the petition, make a determination of whether the petition contains enough signatures of qualified voters to place the ordinance, order, resolution, or motion before the voters.

(g)~~[(f)]~~ If the county clerk finds the petition to be sufficient, the clerk shall certify to the petition committee and the local governmental entity or district board of education within the thirty (30) day period provided for in paragraph ***(f)***~~[(e)]~~ of this subsection that the petition is properly presented and in compliance with the provisions of this section, and that the ordinance, order, resolution, or motion levying the tax will be placed before the voters for approval.

(h)~~[(g)]~~ If the county clerk finds the petition to be insufficient, the clerk shall, within the thirty (30) day period provided for in paragraph ***(f)***~~[(e)]~~ of this subsection, notify, in writing, the petition committee and the local governmental entity or district board of education of the specific deficiencies found. Notification shall be sent by certified mail and shall be published at least one (1) time in a newspaper of general circulation within the county containing the local governmental entity or district board of education levying the tax***.***~~[or,]~~ If there is ***not a newspaper within the county in which to publish the notification, then the notification***~~[no such newspaper,]~~ shall be posted at the courthouse door.

(i)~~[(h)]~~ A final determination of the sufficiency of a petition shall be subject to final review by the Circuit Court of the county in which the local governmental entity or district board of education is located, and shall be limited to the validity of the county clerk's determination. Any petition challenging the county clerk's final determination shall be filed within ten (10) days of the issuance of the clerk's final determination.

(j) ~~[(i)]~~ The local governmental entity or district board of education may cause the cancellation of the election by reconsidering~~[the ordinance, order, resolution, or motion]~~ and amending the ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. The action by the local governmental entity or district board of education shall be valid only if taken within fifteen (15) days following the date the clerk finds the petition to be sufficient.

(3) (a) If an election is necessary under the provisions of subsection (2) of this section, the ***local governmental entity*** ~~[county fiscal court, legislative body of a city, urban-county government, consolidated local government, or other taxing district]~~ shall cause to be submitted to the voters of the ***district*** ~~[county, district, consolidated local government, or urban-county]~~ at the next regular election, the question as to whether the property tax rate shall be levied. The question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election.

(b) If an election is necessary for a school district under the provisions of subsection (2) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than thirty-five (35) days nor more than forty-five (45) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether the property tax rate shall be levied. If the election is held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The cost of a called common school election shall be borne by the school district holding the election. Any called common school election shall comply with the provisions of KRS 118.025.

(c) In an election held under paragraph (a) or (b) of this subsection, the question shall be so framed that the voter may by his or her vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the ordinance, order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the ordinance, order, resolution, or motion shall become effective.

(d) If the ordinance, order, resolution, or motion fails to pass pursuant to an election held under paragraph (a) or (b) of this subsection, the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the local governmental entity or district board of education.

(4) Notwithstanding any statutory provision to the contrary, if a local governmental entity or district board of education has not established a final tax rate as of September 15, due to the recall provisions of this section, KRS 68.245, 132.027, or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by that date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(5) If a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(6) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

➔Section 2. KRS 132.018 is amended to read as follows:

(1) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district is reduced as a result of reconsideration by the county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district under the provisions of KRS 132.017(2)***(j)*** ~~[(i)]~~, the tax rate applicable to personal property levied under the provisions of KRS 68.248(1), 132.024(1), 132.029(1), and 160.473(1) shall be reduced by the respective county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

(2) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district is

reduced, under the provisions of KRS 132.017(3), as a result of a majority of votes cast in an election being opposed to such a rate, the tax rate applicable to personal property levied by the respective county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district shall be reduced, without further action by the levying body, to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

Signed by Governor March 25, 2019.

CHAPTER 84

(SB 65)

AN ACT relating to patient quality of life.

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

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

As used in Sections 1 to 3 of this Act:

(1) "Cabinet" means the Cabinet for Health and Family Services;

(2) "Council" means the Palliative Care Interdisciplinary Advisory Council established under Section 2 of this Act;

(3) "Health facility" has the same meaning as in KRS 216B.015;

(4) "Medical care" means services provided, requested, or supervised by a physician licensed pursuant to KRS Chapter 311 or advanced practice registered nurse licensed pursuant to KRS Chapter 314;

(5) "Palliative care" means patient- and family-centered medical care that anticipates, prevents, and treats suffering caused by serious illness and involves addressing the physical, emotional, social, and spiritual needs of a patient and facilitating patient autonomy, access to information, and choice. Causing or hastening death shall not be deemed a method for anticipating, preventing, or treating suffering as described in this subsection; and

(6) "Serious illness" means any medical illness, physical injury, or condition that causes substantial suffering for more than a short period of time, including but not limited to Alzheimer's disease and related dementias, lung disease, cancer, or heart, renal, or liver failure.

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

(1) The Palliative Care Interdisciplinary Advisory Council is hereby established to improve the quality and delivery of patient- and family-centered care throughout the Commonwealth and to advise the cabinet on matters related to the establishment, maintenance, operation, and outcomes evaluation of palliative care initiatives. The council shall be attached to and administered by the cabinet.

(2) The Governor shall appoint the members of the council to serve three (3) year terms. The council shall consist of thirteen (13) voting members, and may include nonvoting members who are relevant cabinet representatives designated by the Governor. Voting members shall be:

(a) Two (2) members from interdisciplinary medical, nursing, social work, pharmacy, and spiritual professions with palliative care work experience or expertise;

(b) Two (2) members who are either licensed or certified hospice and palliative medicine physicians licensed pursuant to KRS Chapter 311 or licensed or certified hospice and palliative care advanced practice registered nurses licensed pursuant to KRS Chapter 314;

(c) One (1) member who has pediatric palliative care expertise;

(d) One (1) member who is a patient or family caregiver advocate;

(e) One (1) member recommended to the Governor by the Statewide Independent Living Council;

(f) One (1) member recommended to the Governor by the American Cancer Society;

(g) One (1) member recommended to the Governor by the Kentucky Right to Life Association;

(h) One (1) member recommended to the Governor by the Long-Term Care Ombudsman Program;

(i) One (1) member recommended to the Governor by the Kentucky Association of Hospice and Palliative Care;

(j) One (1) member recommended to the Governor by the Kentucky Psychological Association; and

(k) One (1) member recommended to the Governor by the Kentucky Association of Health Care Facilities.

(3) Appointed members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of duties in accordance with KRS 45.101 and administrative regulations promulgated thereunder.

(4) (a) Members of the council shall elect a chair and vice chair whose duties shall be established by the council.

(b) The time and place for regularly scheduled meetings shall be established by a majority vote of the council, but there shall be at least two (2) meetings per year.

(c) The chair or any three (3) voting members shall provide two (2) weeks' notice to the members regarding an upcoming meeting.

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

(1) The statewide Palliative Care Consumer and Professional Information and Education Program is hereby established within the cabinet.

(2) The goals of the Palliative Care Consumer and Professional Information and Education Program shall be to maximize the effectiveness of palliative care initiatives throughout the Commonwealth by ensuring that comprehensive and accurate information and education about palliative care are available to the public, health care providers, and health facilities.

(3) The cabinet shall publish on its Web site information and resources, including links to external resources, about palliative care for the public, health care providers, and health facilities. This shall include but not be limited to:

(a) Continuing education opportunities for health care providers;

(b) Information about palliative care delivery in the home, primary, secondary, and tertiary environments;

(c) Best practices for palliative care delivery; and

(d) Consumer educational materials and referral information for palliative care, including hospice.

(4) (a) The council shall have the authority to review, evaluate, and make recommendations regarding all elements of the Palliative Care Consumer and Professional Information and Education Program, the content of the Web site information and resources described in subsection (3) of this section, and best practices for palliative care delivery and any grants to develop or implement them.

(b) Any evaluations or recommendations shall require the affirmative vote in person, by electronic means, or by proxy of three-fourths (3/4) of the voting members of the council.

(c) Not later than July 1, 2020, and annually thereafter, the council shall submit a report on its findings and recommendations to the commissioner of the Department for Public Health and to the Interim Joint Committee on Health and Welfare.

➔Section 4. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances classified as Schedule III controlled substances pursuant to KRS 218A.020 but does not include estrogens, progestins, and anticosteroids;

(3) "Cabinet" means the Cabinet for Health and Family Services;

(4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of its salts, isomers, or salts of isomers;

(5) ***"Certified community based palliative care program" means a palliative care program which has received certification from the Joint Commission;***

(6) "Child" means any person under the age of majority as specified in KRS 2.015;

(7)~~[(6)]~~ "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;

(8)~~[(7)]~~ "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;

(9)~~[(8)]~~ (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;

(10)~~[(9)]~~ "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(11)~~[(10)]~~ "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(12)~~[(11)]~~ "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;

(13)~~[(12)]~~ "Distribute" means to deliver other than by administering or dispensing a controlled substance;

(14)~~[(13)]~~ "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;

(15)~~[(14)]~~ "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories;

(16) ~~[(15)]~~ "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts, isomers, or salts of isomers;

(17) ~~[(16)]~~ "Fentanyl derivative" means a substance containing any quantity of any chemical compound, except compounds specifically scheduled as controlled substances by statute or by administrative regulation pursuant to this chapter, which is structurally derived from 1-ethyl-4-(N-phenylamido) piperadine:

(a) By substitution:

1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or ethyloxotetrazole ring system; and

2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl, or furanyl group; and

(b) Which may be further modified in one (1) or more of the following ways:

1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy, haloalkyl, hydroxyl, or halide substituents;

2. By substitution on the piperadine ring to any extent with alkyl, allyl, alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6- positions;

3. By substitution on the piperadine ring to any extent with a phenyl, alkoxy, or carboxylate ester substituent at the 4- position; or

4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or hydroxy substituents;

(18) ~~[(17)]~~ "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;

(19) ~~[(18)]~~ "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:

(a) Poses an explosion hazard;

(b) Poses a fire hazard; or

(c) Is poisonous or injurious if handled, swallowed, or inhaled;

(20) ~~[(19)]~~ "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;

(21) ~~[(20)]~~ "Hydrocodone combination product" means a drug with:

(a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or

(b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(22) ~~[(21)]~~ "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the

manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;

(23) ~~[(22)]~~ "Industrial hemp" has the same meaning as in KRS 260.850;

(24) ~~[(23)]~~ "Industrial hemp products" has the same meaning as in KRS 260.850;

(25) ~~[(24)]~~ "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;

(26) ~~[(25)]~~ "Isomer" means the optical isomer, except the Cabinet for Health and Family Services may include the optical, positional, or geometric isomer to classify any substance pursuant to KRS 218A.020;

(27) ~~[(26)]~~ "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;

(b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;

(28) ~~[(27)]~~ "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:

(a) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp;

(b) Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;

(c) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;

(d) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;

(e) A cannabidiol product derived from industrial hemp, as defined in KRS 260.850; or

(f) A cannabidiol product approved as a prescription medication by the United States Food and Drug Administration;

(29) ~~[(28)]~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;

(30) ~~[(29)]~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;

(31) ~~[(30)]~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;

(32) ~~[(31)]~~ "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;

(33) ~~[(32)]~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;

(34) ~~[(33)]~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.020, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

(35) ~~[(34)]~~ "Opium poppy" means the plant of the species papaver somniferum L., except its seeds;

(36) ~~[(35)]~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(37) ~~[(36)]~~ "Physical injury" has the same meaning it has in KRS 500.080;

(38) ~~[(37)]~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(39) ~~[(38)]~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(40) ~~[(39)]~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(41) ~~[(40)]~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;

(42) ~~[(41)]~~ "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(43) ~~[(42)]~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;

(44) ~~[(43)]~~ "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;

(45) ~~[(44)]~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(46) ~~[(45)]~~ "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;

(47) ~~[(46)]~~ "Salvia" means Salvia divinorum or Salvinorin A and includes all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus salvia;

(48) ~~[(47)]~~ "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;

(49) ~~[(48)]~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;

(50) ~~[(49)]~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

(51) ~~[(50)]~~ "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

(a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;

(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

(d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);

(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not

further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;

(f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

(g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;

(h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

(j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;

(52) ~~[(51)]~~ "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

(a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);

(b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α-Pyrrolidinopropiophenone (α-PPP); or

(d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;

(53) ~~[(52)]~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

(54) ~~[(53)]~~ "Telehealth" has the same meaning it has in KRS 311.550;

(55) ~~[(54)]~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

(b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

(c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

(56) ~~[(55)]~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;

(57) ~~[(56)]~~ "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and

(58) ~~[(57)]~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 5. KRS 218A.205 is amended to read as follows:

(1) As used in this section:

(a) "Reporting agency" includes:

1. The Department of Kentucky State Police;
2. The Office of the Attorney General;
3. The Cabinet for Health and Family Services; and
4. The applicable state licensing board; and

(b) "State licensing board" means:

1. The Kentucky Board of Medical Licensure;
2. The Kentucky Board of Nursing;
3. The Kentucky Board of Dentistry;
4. The Kentucky Board of Optometric Examiners;
5. The State Board of Podiatry; and
6. Any other board that licenses or regulates a person who is entitled to prescribe or dispense controlled substances to humans.

(2) (a) When a reporting agency or a law enforcement agency receives a report of improper, inappropriate, or illegal prescribing or dispensing of a controlled substance it may, to the extent otherwise allowed by law, send a copy of the report within three (3) business days to every other reporting agency.

(b) A county attorney or Commonwealth's attorney shall notify the Office of the Attorney General and the appropriate state licensing board within three (3) business days of an indictment or a waiver of indictment becoming public in his or her jurisdiction charging a licensed person with a felony offense relating to the manufacture of, trafficking in, prescribing, dispensing, or possession of a controlled substance.

(3) Each state licensing board shall, in consultation with the Kentucky Office of Drug Control Policy, establish the following by administrative regulation for those licensees authorized to prescribe or dispense controlled substances:

(a) Mandatory prescribing and dispensing standards related to controlled substances, the requirements of which shall include the diagnostic, treatment, review, and other protocols and standards established for Schedule II controlled substances and Schedule III controlled substances containing hydrocodone under KRS 218A.172 and which may include the exemptions authorized by KRS 218A.172(4);

(b) In accord with the CDC Guideline for Prescribing Opioids for Chronic Pain published in 2016, a prohibition on a practitioner issuing a prescription for a Schedule II controlled substance for more than a three (3) day supply of a Schedule II controlled substance if the prescription is intended to treat pain as an acute medical condition, with the following exceptions:

1. The practitioner, in his or her professional judgment, believes that more than a three (3) day supply of a Schedule II controlled substance is medically necessary to treat the patient's pain as an acute medical condition and the practitioner adequately documents the acute medical condition and lack of alternative treatment options which justifies deviation from the three (3) day supply limit established in this subsection in the patient's medical records;

2. The prescription for a Schedule II controlled substance is prescribed to treat chronic pain;

3. The prescription for a Schedule II controlled substance is prescribed to treat pain associated with a valid cancer diagnosis;

4. The prescription for a Schedule II controlled substance is prescribed to treat pain while the patient is receiving hospice or end-of-life treatment ***or is receiving care from a certified community based palliative care program***;

5. The prescription for a Schedule II controlled substance is prescribed as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;

6. The prescription for a Schedule II controlled substance is prescribed to treat pain following a major surgery or the treatment of significant trauma, as defined by the state licensing board in consultation with the Kentucky Office of Drug Control Policy;

7. The Schedule II controlled substance is dispensed or administered directly to an ultimate user in an inpatient setting; or

8. Any additional treatment scenario deemed medically necessary by the state licensing board in consultation with the Kentucky Office of Drug Control Policy.

Nothing in this paragraph shall authorize a state licensing board to promulgate regulations which expand any practitioner's prescriptive authority beyond that which existed prior to June 29, 2017;

(c) A prohibition on a practitioner dispensing greater than a forty-eight (48) hour supply of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone unless the dispensing is done as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;

(d) A procedure for temporarily suspending, limiting, or restricting a license held by a named licensee where a substantial likelihood exists to believe that the continued unrestricted practice by the named licensee would constitute a danger to the health, welfare, or safety of the licensee's patients or of the general public;

(e) A procedure for the expedited review of complaints filed against their licensees pertaining to the improper, inappropriate, or illegal prescribing or dispensing of controlled substances that is designed to commence an investigation within seven (7) days of a complaint being filed and produce a charging decision by the board on the complaint within one hundred twenty (120) days of the receipt of the complaint, unless an extension for a definite period of time is requested by a law enforcement agency due to an ongoing criminal investigation;

(f) The establishment and enforcement of licensure standards that conform to the following:

1. A permanent ban on licensees and applicants convicted after July 20, 2012, in this state or any other state of any felony offense relating to controlled substances from prescribing or dispensing a controlled substance;

2. Restrictions short of a permanent ban on licensees and applicants convicted in this state or any other state of any misdemeanor offense relating to prescribing or dispensing a controlled substance;

3. Restrictions mirroring in time and scope any disciplinary limitation placed on a licensee or applicant by a licensing board of another state if the disciplinary action results from improper, inappropriate, or illegal prescribing or dispensing of controlled substances; and

4. A requirement that licensees and applicants report to the board any conviction or disciplinary action covered by this subsection with appropriate sanctions for any failure to make this required report;

(g) A procedure for the continuous submission of all disciplinary and other reportable information to the National Practitioner Data Bank of the United States Department of Health and Human Services;

(h) If not otherwise required by other law, a process for submitting a query on each applicant for licensure to the National Practitioner Data Bank of the United States Department of Health and Human Services to retrieve any relevant data on the applicant; and

(i) Continuing education requirements beginning with the first full educational year occurring after July 1, 2012, that specify that at least seven and one-half percent (7.5%) of the continuing education required of the licensed practitioner relate to the use of the electronic monitoring system established in KRS 218A.202, pain management, or addiction disorders.

(4) For the purposes of pharmacy dispensing, the medical necessity for a Schedule II controlled substance as documented by the practitioner in the patient's medical record and the prescription for more than a three (3) day supply of that controlled substance are presumed to be valid.

(5) A state licensing board shall employ or obtain the services of a specialist in the treatment of pain and a specialist in drug addiction to evaluate information received regarding a licensee's prescribing or dispensing practices related to controlled substances if the board or its staff does not possess such expertise, to ascertain if the licensee under investigation is engaging in improper, inappropriate, or illegal practices.

(6) Any statute to the contrary notwithstanding, no state licensing board shall require that a grievance or complaint against a licensee relating to controlled substances be sworn to or notarized, but the grievance or complaint shall identify the name and address of the grievant or complainant, unless the board by administrative regulation authorizes the filing of anonymous complaints. Any such authorizing administrative regulation shall require that an anonymous complaint or grievance be accompanied by sufficient corroborating evidence as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the complaint or grievance is meritorious.

(7) Every state licensing board shall cooperate to the maximum extent permitted by law with all state, local, and federal law enforcement agencies, and all professional licensing boards and agencies, state and federal, in the United States or its territories in the coordination of actions to deter the improper, inappropriate, or illegal prescribing or dispensing of a controlled substance.

(8) Each state licensing board shall require a fingerprint-supported criminal record check by the Department of Kentucky State Police and the Federal Bureau of Investigation of any applicant for initial licensure to practice any profession authorized to prescribe or dispense controlled substances.

Signed by Governor March 25, 2019.

CHAPTER 85

(SB 92)

AN ACT relating to sexual violence training.

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

➔Section 1. KRS 311A.120 is amended to read as follows:

(1) As a condition of being issued a certificate or license as an emergency medical technician or first responder, the applicant shall have completed a Kentucky Board of Emergency Medical Services approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

(2) The board shall ***promulgate administrative regulations to*** require continuing education for emergency medical technicians or first responders that includes the completion of one ***(1) hour***~~[and one-half (1.5) hours]~~ of board approved continuing education covering the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020, at least one (1) time every ***two (2) year renewal cycle***~~[five (5) years]~~. The one ***(1) hour***~~[and one-half (1.5) hours]~~ required under this section shall be included in the current number of required continuing education hours***.***

(3) The board shall promulgate administrative regulations to require continuing education for emergency medical technicians or first responders which includes the completion of a training course of at least one (1) hour covering awareness of sexual violence, including reporting options, care options, pre-hospital treatment considerations, knowledge of regional rape crisis centers, and how to access the SANE-ready list, at least one (1) time every two (2) year renewal cycle. The one (1) hour of continuing education required under this subsection shall be included in the current number of required continuing education hours.

Signed by Governor March 25, 2019.

CHAPTER 86

(SB 114)

AN ACT relating to official documents and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 32 of this Act:

(1) "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record;

(2) "Acknowledged before me" or "appears before me" means being in:

(a) The same physical location as another individual person and close enough to see, hear, communicate with, and exchange credentials with that person; or

(b) A different physical location from another person but able to see, hear, and communicate with that person by means of communication technology;

(3) "Communication technology" means an electronic device or process that:

(a) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(b) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual with a vision, hearing, or speech impairment;

(4) "Credential" means a non-expired record issued by a government which bears an individual's photo and which evidences an individual's identity;

(5) "Credential analysis" means a process or service that meets the standards adopted under subsection (7) of Section 12 and Section 24 of this Act by which a third person provides confidence as to the validity of a government-issued identification credential through review of public and proprietary data sources;

(6) "Dynamic knowledge-based authentication assessment" means an identity assessment that is based on a set of questions formulated from public or private data sources for which the signer of an electronic record has not provided a prior answer;

(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(8) "Electronic notarization" means a notarial act performed with respect to an electronic record by means of communication technology that meets the standards adopted under subsection (7) of Section 12 and Section 24 of this Act;

(9) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record;

(10) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe;

(11) "Identity proofing" means, in the use of communication technology, a process or service that meets standards adopted under subsection (7) of Section 12 and Section 24 of this Act by which a third person provides confidence as to the identity of an individual through review of personal information from public or proprietary data sources;

(12) "In a representative capacity" means acting as:

(a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(c) An agent or attorney-in-fact for a principal; or

(d) An authorized representative of another in any other capacity;

(13) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under Section 3 of this Act and any other law of the Commonwealth;

(14) "Notarial officer" means a notary public or other individual authorized to perform a notarial act;

(15) "Notary public" means an individual commissioned to perform a notarial act by the Secretary of State. This term does not include other notarial officers who may perform a notarial act in this state;

(16) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record, including an official notary seal;

(17) "Online notary public" means a notary public who has registered with the Secretary of State, pursuant to any standards and rules adopted under Sections 19 and 24 of this Act, to perform electronic notarizations under Sections 1 to 32 of this Act;

(18) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States;

(19) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(21) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act or is appearing remotely before the notary;

(22) "Remote presentation" means transmission to an online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to identify the individual seeking the online notary public's services and to perform credential analysis;

(23) "Sign" means, with present intent to authenticate or adopt a record, to:

(a) Execute or adopt a tangible symbol; or

(b) Attach to or logically associate with the record an electronic symbol, sound, or process;

(24) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record;

(25) "Stamping device" means:

(a) A physical device capable of affixing to or embossing on a tangible record an official stamp; or

(b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp;

(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(27) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 32 of this Act apply to a notarial act performed on or after the effective date of this Act.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A notarial officer may perform the following notarial acts:

(a) Take acknowledgements;

(b) Administer oaths and affirmations;

(c) Take verifications of statements on oath or affirmation;

(d) Certify that a copy of any document, other than a document is recorded or in the custody of any federal, state, or local governmental agency, office, or court, is a true copy;

(e) Certify depositions of witnesses;

(f) Make or note a protest of a negotiable instrument;

(g) Witness or attest signatures; and

(h) Perform any notarial act authorized by a law of the Commonwealth other than Sections 1 to 32 of this Act.

(2) A notary public may perform any of the notarial acts listed in subsection (1) of this section with respect to tangible records and electronic records.

(3) Upon registration with the Secretary of State, an online notary may perform any of the notarial acts listed in subsection (1) of this section as an electronic notarization.

(4) A notarial officer shall not perform a notarial act with respect to a record to which the notarial officer or the notarial officer's spouse or other member of the notarial officer's immediate family is a party, or in which any of those individuals has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

(5) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

A notarial officer who takes an acknowledgment of a record, takes a verification of a statement on oath or affirmation, or witnesses or attests to a signature, shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer has the identity claimed and that the signature on the record is the signature of the individual. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters as set forth in KRS 355.3-505(2).

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual by means of one (1) of the following credentials:

(a) A non-expired passport, driver's license, or government-issued identification card;

(b) Another current form of government identification issued to an individual, which contains the signature and a photograph of the individual, and is satisfactory to the notarial officer; or

(c) If the means presented in paragraphs (a) and (b) of this subsection are unavailable, verification on oath or affirmation of a credible witness personally appearing before the notarial officer and known to the notarial officer or whom the notarial officer can identify on the basis of a current passport, driver's license, or government-issued identification card.

(3) Notwithstanding subsection (2) of this section, in performing an electronic notarization, an online notary public has satisfactory evidence of the identity of an individual appearing before the online notary public if the online notary public can identify the individual through the use of communication technology that meets the requirements of this section and the administrative regulations promulgated by the Secretary of State under subsection (7) of Section 12 and Section 24 of this Act, and by the following:

(a) The online notary public's personal knowledge of the individual; or

(b) Each of the following:

1. Remote presentation by the individual of a government-issued identification credential specified in this section that contains the signature and photograph of the individual;

2. Credential analysis of the identification credential described by subparagraph 1. of this paragraph; and

3. Identity proofing of the individual, which may include a dynamic knowledge-based authentication assessment; or

(c) A valid public key certificate that complies with the administrative regulations promulgated by the Secretary of State pursuant to Section 24 of this Act.

(4) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the notarial officer of the identity of the individual.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

(b) The individual's signature is knowingly and voluntarily made.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than Sections 1 to 32 of this Act.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

If an individual is physically unable to sign a record, the individual may direct another individual, other than the notarial officer, to sign the individual's name on the record by proxy, in the presence of two (2) witnesses unaffected by the record, one (1) of whom may be the individual who signs, by proxy, on behalf of the individual physically unable to sign. Both witnesses shall sign their own names beside the proxy signature, and the notarial officer shall insert "Signature affixed by (name of proxy signer) at the direction of (name of individual) and in the presence of (names and addresses of the two witnesses)" or words of similar import.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A notarial act may be performed in this state by:

(a) A notary public of this state; or

(b) A county clerk of this state.

(2) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in this section conclusively establishes the authority of the notarial officer to perform the notarial act.

(4) A county clerk shall have the powers of a notarial officer in the exercise of the official functions of the office of clerk within his or her county, and the official actions of the county clerk shall not require the witness or signature of a notary public.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) (a) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

1. A notary public of that state;

2. A judge, clerk, or deputy clerk of a court of that state; or

3. Any other individual authorized by the law of that state to perform the notarial act.

(b) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in paragraph (a) or (b) of this subsection conclusively establish the authority of the officer to perform the notarial act.

(2) (a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

1. A notary public of the tribe;

2. A judge, clerk, or deputy clerk of a court of the tribe; or

3. Any other individual authorized by the law of the tribe to perform the notarial act.

(b) The signature and title of an individual performing a notarial act under the authority and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in paragraph (a) or (b) of this subsection conclusively establish the authority of the notarial officer to perform the notarial act.

(3) (a) A notarial act performed under the authority of federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

1. A judge, clerk, or deputy clerk of a court;

2. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

3. An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or

4. Any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an officer described in paragraph (a) or (b) of this subsection conclusively establish the authority of the officer to perform the notarial act.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

(2) If a notarial act is performed under the authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) An online notary public:

(a) Shall be commissioned as a notary public pursuant to Sections 1 to 32 of this Act and has the powers and duties of a traditional notary public as provided by Sections 1 to 32 of this Act;

(b) May perform notarial acts as provided by Sections 1 to 32 of this Act in addition to performing electronic notarizations; and

(c) May, upon registration with the Secretary of State as an online notary public pursuant to Section 19 of this Act, perform electronic notarizations authorized under this section.

(2) An online notary public may perform an electronic notarization provided the online notary public is physically located in this state while performing the notarial act and if:

(a) The online notary public has:

1. Personal knowledge of the identity of the individual pursuant to Section 6 of this Act; or

2. Satisfactory evidence of the identity of the individual pursuant to subsection (3) of Section 6 of this Act; and

(b) At the time of electronic notarization:

1. The individual appearing before the online notary public is located within this state, or elsewhere within the geographic boundaries of a state of the United States; or

2. The individual is located outside the United States and:

a. The individual confirms to the online notary public that the record is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity located in the territorial jurisdiction of the United States, or relates to property located in the United States, or relates to a transaction substantially connected to the United States; and

b. To the online notary public's actual knowledge, the act of making the statement or signing the record is not prohibited by the jurisdiction in which the individual is located.

(3) In addition to the authority of a notary public to refuse to perform a notarial act pursuant to Section 7 of this Act, a notary public may refuse to perform a notarial act under this section if the notary public is not satisfied that a notarial act performed would conform with subsection (2)(b)2. of this section.

(4) If a notarial act involves a statement made in or a signature executed on an electronic record by an individual by means of communication technology, the certificate of notarial act required by Section 13 of this Act shall indicate that the individual making the statement or signing the record appeared before the online notary public by means of communication technology.

(5) For each electronic notarization, the online notary public shall:

(a) Include, in addition to the journal entries required under Section 17 of this Act, an indication of whether an individual making a statement or executing a signature which is the subject of the notarial act appeared before the online notary public in the notary's physical presence or by means of communication technology;

(b) Create a complete recording of the conference session containing the audio-video communication between the online notary public and individual appearing before the online notary public, in accordance with the standards adopted under subsection (7) of this section and Section 24 of this Act; and

(c) Maintain the recording described by paragraph (b) of this subsection for at least ten (10) years after the date of the applicable transaction or proceeding or for the period of retention of a notary public's journal pursuant to Section 17 of this Act, whichever is longer.

(6) Before an online notary public performs any electronic notarizations under this section, the online notary public shall register with the Secretary of State pursuant to Section 19 of this Act.

(7) The Secretary of State may promulgate administrative regulations regarding the performance of electronic notarizations. The administrative regulations may:

(a) Prescribe the means of performing a notarial act involving communication technology;

(b) Establish standards for communication technology and the process of credential analysis and identity proofing;

(c) Establish procedures for the requirements of providers of communication technology; and

(d) Establish standards and requirements for the retention of a video and audio copy of the performance of a notarial act.

(8) Regardless of the physical location of the individual at the time of the notarial act, the validity of an electronic notarization performed by an online notary public commissioned in this state shall be determined by applying the laws of this state.

(9) An online notary public shall take reasonable steps to ensure that:

(a) Any registered device or credential used to create an electronic signature is current and has not been revoked or terminated by the device's or credential's issuing or registering authority;

(b) The audio-video communication used in an electronic notarization is secure from unauthorized interception or use;

(c) A backup exists for all information pertaining to an electronic notarization required to be kept by administrative regulations promulgated pursuant to subsection (7) of this section and Section 24 of this Act; and

(d) The backup described by paragraph (c) of this subsection is secure from unauthorized use.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A notarial act shall be evidenced by a certificate. The certificate shall:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State;

(c) Identify the jurisdiction in which the notarial act is performed;

(d) Contain the title of office and name of the notarial officer; and

(e) If the notarial officer is a notary public, indicate the commission number and date of expiration, if there is an expiration date, of the officer's commission.

(2) If a notarial act is performed regarding a tangible record by a notarial officer, including a notary public, the certificate shall contain the information specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along with the additional information in paragraph (e) of subsection (1) of this section, if the certificate is completed by a notary public. An official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer, the certificate shall contain the information specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along with the additional information in paragraph (e) of subsection (1) of this section if the certificate is completed by a notary public. An official stamp may be attached to or logically associated with the certificate.

(3) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) of this section and:

(a) Is in a short form set forth in Section 14 of this Act;

(b) Is in a form otherwise permitted by the laws of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in Sections 1 to 32 of this Act or other law of this state other than Sections 1 to 32 of this Act.

(4) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in Sections 1 to 32 of this Act.

(5) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(6) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards pursuant to Section 24 of this Act for attaching, affixing, or logically associating the certificate, the process shall conform to the standards.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

The Secretary of State shall promulgate short form certificates for notarial acts which shall contain space for the information required by subsections (1) and (2) of Section 13 of this Act, and include a space to indicate the manner of notarization of the document.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

A notary public commissioned pursuant to Sections 1 to 32 of this Act is not required to use a stamp. If a notary public chooses to use a stamp, the notary public shall have an official stamp which shall:

(1) Include the notary public's name, title, jurisdiction, commission number, and expiration date; and

(2) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(2) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the Secretary of State on discovering that the device is lost or stolen.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) An online notary public shall maintain a journal in which the online notary public chronicles all electronic notarizations that the online notary public performs. The online notary public shall retain the journal for ten (10) years after the performance of the last electronic notarization chronicled in the journal.

(2) The journal shall be created in an electronic format. An online notary public may maintain more than one (1) journal to chronicle electronic notarizations. The journal shall be maintained in an electronic format in a permanent, tamper-evident electronic format complying with administrative regulations promulgated pursuant to Section 24 of this Act.

(3) An entry in a journal shall be made contemporaneously with performance of the notarial act and contain the following information:

(a) The date and time of the notarial act;

(b) A brief description of the record, if any, and type of notarial act as authorized in Section 3 of this Act;

(c) The full name and address of each individual for whom the notarial act is performed;

(d) If identity of the individual is based on personal knowledge, a statement to that effect;

(e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification and the means used as well as the date of issuance and expiration of any identification credential presented; and

(f) The fee, if any, charged by the online notary public.

(4) If a notarial act involves the use of communication technology, the notary public shall retain the audio-visual recording of the performance of the notarial act in compliance with both subsection (7) of Section 12 of this Act and the administrative regulations promulgated pursuant to Section 24 of this Act.

(5) If a notary public's journal is lost or stolen, the notary public promptly shall notify the Secretary of State on discovering that the journal is lost or stolen.

(6) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section.

(7) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit it to the Secretary of State or otherwise as directed in administrative regulations promulgated by the Secretary of State pursuant to Section 24 of this Act.

(8) A notary public may designate a custodian to do any of the following:

(a) Maintain the journal required under subsection (1) of this section; or

(b) Retain an audio or visual recording of a notarial act required under subsection (4) of this section.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A notary public shall register with the Secretary of State pursuant to Section 19 of this Act if the notary public intends to perform notarial acts:

(a) With respect to electronic records where the individual will appear before the notary in the notary's physical presence; or

(b) As an online notary public to perform electronic notarizations by means of communication technology.

(2) A notary public may select one (1) or more tamper-evident technologies to perform notarial acts in the physical presence of the individual signer with respect to electronic records, or to perform electronic notarizations. A person may not require a notary public to perform any notarial act with a technology that the notary public has not selected.

(3) If the Secretary of State has established standards respecting technology to perform notarial acts in the physical presence of the individual signer with respect to electronic records, or to perform electronic notarizations, the technology chosen by the notary public shall conform to those standards.

(4) A tangible copy of an electronic record containing a notarial certificate may be accepted as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required by administrative regulations promulgated by the Secretary of State and be accompanied by payment of the specified fee.

(2) An applicant for a commission as a notary public shall:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen or permanent legal resident of the United States;

(c) Be a resident of or have a place of employment or practice in the county within this Commonwealth where the application is made;

(d) Be able to read and write English;

(e) Not be disqualified to receive a commission under Section 20 of this Act;

(f) Submit to the Secretary of State any application forms, information, disclosures, and verifications as are required by administrative regulations promulgated by the Secretary of State;

(g) Submit to the Secretary of State proof of having obtained the requisite surety bond required under subsection (4) of this section;

(h) Take an oath of office as set forth in in subsection (4) of this section; and

(i) Submit a fee payment, as specified in Section 27 of this Act, made payable to the State Treasurer.

(3) On compliance with this section, the Secretary of State shall issue a commission as a notary public to an applicant for a term of four (4) years. The Secretary of State shall assign a unique commission number to each notary public, which same commission number shall continue to be assigned to the notary public in the event of the renewal or later issuance of another commission to the same individual notary public.

(4) Within thirty (30) days of receiving a notary public commission from the Secretary of State, the applicant shall appear in person to take an oath of office, submit an assurance in the form of a surety bond, and file the commission, all of which shall take place before the county clerk listed in the commission application. The applicant shall pay fees to the county clerk for filing the assurance and administering the oath as set forth in KRS 64.012.

(5) The assurance required by this section shall be in the amount of one thousand dollars ($1,000) and shall be issued by a surety or other entity licensed or authorized to do business in this state. The assurance shall cover acts performed during the term of the notary public's commission and shall be in the form prescribed by the Secretary of State. If a notary public violates the law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty (30) days' notice to the Secretary of State before canceling the assurance or of the assurance's expiration if such expiration is prior to the date of expiration of the notary's commission. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the county clerk.

(6) A notarial officer may perform a notarial act in any county of the Commonwealth after filing the commission and assurance and taking the oath required by this section, and for so long as the notary public's commission and surety bond are valid and in effect.

(7) If, at any time during his or her period of commission under this section, or period of registration under subsection (10) of this section, a notary public changes his or her mail or electronic mail address, county of residence, name, signature, electronic signature, or the technology or device used to perform notarial acts or to maintain his or her journal or to render electronic documents tamper-evident, the notary public shall, within ten (10) days after making the change, submit to the Secretary of State the changed information upon the form and containing all information required by the Secretary of State, along with a fee payment, as specified in Section 27 of this Act, payable to the State Treasurer.

(8) (a) Prior to the expiration of his or her commission period, a notary public may apply to the Secretary of State to renew his or her commission, and shall comply with the qualifications, renewal application filings, and other requirements then applicable to obtaining an original commission from the Secretary of State. The application for commission renewal shall be accompanied by a fee payment, as specified in Section 27 of this Act, made payable to the State Treasurer.

(b) If approved, the Secretary of State shall issue a renewed commission to the notary public for an additional four (4) year term, using the same commission number as the notary public's original commission and indicating the new commission expiration date.

(c) Pursuant to the procedures set forth in subsections (4) and (5) of this section, the commission along with the required assurance shall be filed with the county clerk listed in the renewal application, and a new oath of office administered by the county clerk and new fees paid by the notary public to the county clerk, as determined by KRS 64.012.

(d) A renewed commission shall be valid and effective only upon compliance with this subsection. A notary public shall have no authority to perform notarial acts during any period between the expiration of his or her current commission and the effective date of any renewal commission.

(9) A commission to act as a notary public shall authorize the notary public to perform notarial acts. The commission shall not provide the notary public with any immunity or benefit conferred by the law of this state on public officials or employees.

(10) Before performing an initial notarial act with respect to electronic records, or before performing an initial online notarial act, a notary public shall first register with the Secretary of State. The notary public shall:

(a) At the time of registration, be a commissioned notary public in this Commonwealth who has complied with the requirements set forth in subsections (1) to (8) of this section, and who has complied with all applicable notarial requirements set forth in this chapter;

(b) Register with the Secretary of State by submitting an electronic registration pursuant to this subsection;

(c) Pay to the Secretary of State a registration fee payment, as specified in Section 27 of this Act, which is in addition to the commission application fee required to be a notarial officer in this state and any fees required to be paid to the county clerk to file a commission and assurance and to take an oath pursuant to KRS 62.010;

(d) Submit to the Secretary of State any registration forms, information, disclosures, and verifications required by administrative regulations promulgated by the Secretary of State; and

(e) Submit to the Secretary of State with the registration proof satisfactory to the Secretary of State that the registrant has satisfied the requirement to post an assurance as a notary public, as set forth in subsections (4) and (5) of this section.

(11) The Secretary of State shall promulgate administrative regulations to establish forms and procedures applicable to the registrations governed by subsection (10) of this section, and shall obtain at least the following information in connection with each registration:

(a) The registrant's commission number and full legal name as it appears on the registrant's commission, and the name to be used for registration, if different;

(b) The county in this state in which the registrant resides or has his or her place of employment or practice;

(c) The electronic mail and resident address of the registrant;

(d) Whether the registrant is registering to perform one (1) or both of the following:

1. Notarial acts with respect to electronic records in which the individual will appear before the notary in the notary's physical presence; or

2. As an online notary public to perform electronic notarizations;

(e) A description of the technologies or devices that the registrant intends to use to perform notarial acts with respect to electronic records or electronic notarizations, to maintain the journal required by Section 17 of this Act, and to render electronic records tamper-evident after a notarial act is completed, each of which technologies or devices shall comply with any standards established by the Secretary of State;

(f) The digital certification of the registrant; and

(g) Any other information, evidence, disclosures, or declarations required or deemed beneficial by the Secretary of State pursuant to any administrative regulations promulgated by the Secretary of State.

(12) The Secretary of State may reject a registration if the applicant fails to comply with any provision of Sections 1 to 32 of this Act.

(13) Thirty (30) days after compliance with all registration requirements and payment of the required registration fee, a notary public will be registered with the Secretary of State to perform notarial acts in the physical presence of an individual signer with respect to electronic records, or to perform electronic notarizations as an online notary public, or as both.

(14) The Secretary of State may at any time cancel the registration of a notary public to perform notarial acts with respect to electronic records, or as an online notary public to perform electronic notarizations, if the notary public fails to comply with any of the requirements of Sections 1 to 32 of this Act or based upon any of the grounds for revocation or suspension of a notary public's commission.

(15) Registration of a notary public under this section is suspended by operation of law when the notary public is no longer commissioned as a notary public in this state. If the commission of a notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the notary public in writing that his or her registration under this section will be suspended by operation of law until he or she is appointed as a notary public in this Commonwealth.

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(a) Failure to comply with Sections 1 to 32 of this Act;

(b) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Secretary of State;

(c) A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;

(d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(e) Failure by the notary public to discharge any duty required of a notary public, whether by Sections 1 to 32 of this Act, administrative regulations promulgated by the Secretary of State, or any federal or state law;

(f) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

(g) Violation by the notary public of an administrative regulation of the Secretary of State regarding a notary public;

(h) Denial, refusal to renew, revocation, or suspension of a notary public commission in another state; or

(i) Failure of the notary public to maintain an assurance.

(2) The authority of the Secretary of State to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State shall maintain an electronic database of notaries public:

(a) Through which a person may verify the authority of a notary public to perform notarial acts; and

(b) Which indicates whether a notary public has registered with the Secretary of State in order to perform notarial acts on electronic records or to act as an online notary public.

(2) Each county clerk who files a notary public's assurance and administers the oath of office to a notary public shall promptly record the fact and date in the database described in subsection (1) of this section.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A commission as a notary public does not authorize an individual to engage in the practice of law.

(2) A notary public shall not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise engage in the unauthorized practice of law as defined by rule of the Supreme Court.

(4) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in subsection (4) of Section 3 of this Act, the failure of a notarial officer to perform a duty or meet a requirement specified in Sections 1 to 32 of this Act does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on other laws of this state. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

The Secretary of State may promulgate administrative regulations to implement Sections 1 to 32 of this Act. Promulgated administrative regulations regarding the performance of notarial acts with respect to electronic records or electronic notarizations shall not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The administrative regulations may:

(1) Prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) Establish requirements for notarial training or education as a condition of obtaining or renewing a commission or before registering to perform notarial acts with respect to electronic records or to perform electronic notarizations;

(3) Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(4) Include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(5) Prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;

(6) Include provisions to prevent fraud or mistake in the performance of notarial acts; and

(7) Establish the process for approving and accepting surety bonds and other forms of assurance under Section 19 of this Act.

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A commission as a notary public in effect on the effective date of this Act shall continue until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this Act shall be subject to and comply with Sections 1 to 32 of this Act. A notary public, in performing notarial acts after the effective date of this Act, shall comply with Sections 1 to 32 of this Act.

(2) An existing commission as a notary public does not constitute authority to act as an online notary public. Registration pursuant to Section 19 of this Act, and compliance with Sections 1 to 32 of this Act, is required before a notary public with an existing commission may act as an online notary public.

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 32 of this Act does not affect the validity or effect of a notarial act performed before the effective date of this Act.

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) For a notarial act relating to a tangible or electronic record, or for an electronic notarization, a notary public may charge a fee:

(a) In compliance with KRS 64.300; and

(b) Which has been clearly disclosed to the person requesting the service in advance.

(2) Compensation for services provided by a notary public which do not constitute notarial acts is not governed by this section.

(3) The Secretary of State may charge the following fees in relation to notaries public:

(a) Application for a commission or renewal as a notary public.....$10

(b) Issuance of a replacement commission upon loss or destruction of the original.....$10

(c) Update to commission or registration information upon a change of name or address or other specified information.....$10

(d) Issuance of an electronic certificate of authority or Apostille.....$5 per document.

(4) In accordance with KRS 64.012, county clerks may assess fees for services required to fulfill obligations set forth in Sections 1 to 32 of this Act.

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) If an electronic record or paper printout of an electronic record relating to real property located in this state contains an acknowledgement performed by electronic means, notwithstanding any omission or error in the certificate of acknowledgement or failure of the record to show an acknowledgement in compliance with applicable law, upon the record being recorded with the county clerk of the county in which the real property is located or filed with the Secretary of State:

(a) The electronic record or paper printout of an electronic record shall be deemed to be lawfully recorded or filed; and

(b) All persons, including without limitation any creditor, encumbrancer, mortgagee, subsequent purchaser for valuable consideration, or any other subsequent transferee thereof or of any interest therein, are deemed to have notice of its contents.

(2) For the purposes of this section, a record is deemed to comply with all applicable requirements upon the recording by the county clerk of the county in which the real property is located or the filing of the record with the Secretary of State, as required by law.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A writing or record that appears on its face to have been properly notarized in accordance with Sections 1 to 32 of this Act shall be presumed to have been notarized properly and may be recorded by the clerk.

(2) A writing or record notarized outside this state by a notary public or other person referenced in Section 10 or 11 of this Act that appears on its face to be properly notarized shall be presumed to have been notarized properly in accordance with the laws and regulations of the jurisdiction in which the document was notarized.

(3) The county clerk shall be immune from suit arising from any acts or omissions relating to recording records that have been notarized by electronic means as set forth in Sections 1 to 32 of this Act unless the clerk was grossly negligent or engaged in willful misconduct.

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 32 of this Act are to be construed and applied in a manner consistent with KRS 369.101 to 369.120. In accordance with KRS 369.105, nothing in Sections 1 to 32 of this Act shall affirmatively require any person to create, generate, send, communicate, receive, store, or otherwise process or use electronic records or complete a transaction using electronic means, and in accordance with KRS 369.118, nothing shall require any governmental agency to send and accept electronic records and electronic signatures to and from other persons, or to otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures, except as may be otherwise required by law.

(2) A requirement that a record or a signature associated with a record be notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a paper printout of an electronic record bearing an electronic signature of the person authorized to perform that act and all other information required to be included pursuant to KRS 369.111.

(3) In accordance with KRS 369.118, a governmental agency that accepts paper printouts of electronic records may establish rules, procedures, or requirements governing this acceptance.

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) With respect only to notarial acts performed in relation to tangible records, the county clerk of a county in whose office any notary public has so filed his or her signature and surety bond shall when requested subjoin to any certificate of proof or acknowledgement signed by the notary a certificate under his or her hand and seal stating that such notary public's written signature is on file in the clerk's office, and was at the time of taking such proof or acknowledgement duly authorized to take the same, that the clerk is well acquainted with the handwriting of the notary public, and believes that the signature to the proof or acknowledgement is genuine.

(2) For all notarial acts performed in relation to electronic records that are transmitted to another state or nation, electronic evidence of the authenticity of the official signature and seal of a notary public of this state, if required, shall be attached to, or logically associated with, the record and shall be in the form of an electronic certificate of authority signed by the Office of the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the United States.

(3) An electronic certificate of authority evidences the authenticity of the official signature and seal of an online notary public of this state and shall contain substantially the following:

"Certificate of Authority for a Notarial Act

I, (name), Secretary of State of the Commonwealth of Kentucky, certify that (name of electronic notary), the person named as a Notary Public in the attached or associated electronic document, was indeed commissioned as a Notary Public for the Commonwealth of Kentucky and authorized to act as such at the time of the document's electronic notarization.

To verify this Certificate of Authority for a Notarial Act, I have included herewith my electronic signature this day of , (year).

(Electronic signature and seal of the Kentucky Secretary of State)"

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

(1) A remotely located individual may comply with Section 5 of this Act by appearing before a notary public by means of communication technology.

(2) A notary public located in this state may perform a notarial act facilitated by communication technology for a remotely located individual if:

(a) The notary public:

1. Has personal knowledge pursuant to subsection (1) of Section 6 of this Act of the identity of the individual;

2. Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under subsection (2) of Section 6 of this Act; or

3. Reasonably can identify the individual by at least two (2) different types of identity-proofing processes or services;

(b) The notary public is able reasonably to identify a record before the notary public as the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;

(c) The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) For a remotely located individual who is located outside the United States:

1. The record:

a. Is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or

b. Involves property located in the territorial jurisdiction of the United States or a transaction substantially connected with the United States; and

2. The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(3) If a notarial act is performed pursuant to this section, the certificate of notarial act required by Section 13 of this Act and the short-form certificate provided in Section 14 of this Act shall indicate that the notarial act was performed by means of communication technology.

(4) A short-form certificate provided in Section 14 of this Act for a notarial act subject to this section is sufficient if it:

(a) Complies with administrative regulations promulgated pursuant to subsection (7)(a) of this section; or

(b) Is in the form provided by Section 14 of this Act and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(5) A notary public, a guardian, a conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subsection (2)(c) of this

section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by administrative regulations promulgated under subsection (7)(d) of this section, the recording shall be retained for no less than ten (10) years after the recording is made.

(6) Before a notary public performs the notary public's initial notarial act under this section, the notary public shall notify the Secretary of State that the notary public will be performing notarial acts facilitated by communication technology and identify the technology. If the Secretary of State has established standards for approval of communication technology or identity proofing under Section 27 of this Act, the communication technology and identity proofing shall conform to those standards.

(7) In addition to promulgating administrative regulations under Section 27 of this Act, the Secretary of State may promulgate administrative regulations regarding performance of a notarial act. The administrative regulations may:

(a) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(b) Establish standards for communication technology and identity proofing;

(c) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(d) Establish standards and a period of the retention of an audio-visual recording created under subsection (2)(c) of this section.

(8) Before promulgating administrative regulations governing performance of a notarial act with respect to a remotely located individual, the Secretary of State shall consider:

(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the National Association of Secretaries of State;

(b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(c) The views of governmental officials and entities and other interested persons.

(9) By allowing its communication technology or identity proofing technology to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under subsection (2)(c) of this section, the provider of the technology appoints the Secretary of State as the provider's agent for service of process in any civil action in this state related to the notarial act.

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) If a law requires, as a condition for recording by the county clerk upon the records relating to real property, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement shall be satisfied by an electronic document that complies with the requirements of Sections 1 to 32 of this Act or this section.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(4) As used in this section, "paper document" means a document that is received by the clerk in a form that is not electronic. A clerk:

(a) May receive, index, store, archive, and transmit electronic documents;

(b) May provide for access to, and search and retrieval of, documents and information by electronic means;

(c) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(d) May convert paper documents accepted for recording into electronic form;

(e) May convert into electronic form information recorded before the clerk began to record electronic documents;

(f) May accept electronically any fee, levy, or tax that the clerk is authorized to collect; and

(g) May agree with other officials of a state or a political subdivision of that state, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees, levies, and taxes that the clerk is authorized to accept.

(5) This section shall be known and may be cited as the "Uniform Real Property Electronic Recording Act." In applying and construing this section, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) If a law requires that an instrument relating to real property within the Commonwealth to be admitted to the public record and recorded, to be an original, to be on paper or another tangible medium, to be in writing, or to be signed, the requirement shall be satisfied by a paper copy of an electronic record, including an electronic record bearing an electronic signature, that a notary public has certified, pursuant to subsection (3) of this section, to be a true and correct copy of the record that was originally in electronic form and bearing an electronic signature.

(2) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a paper copy of an electronic document bearing an electronic signature of the person authorized to perform that act, and all other information required to be included, that a notary public has certified, pursuant to subsection (3) of this section, to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature of the person. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(3) A county clerk shall record a paper copy of a document that was originally in electronic form and that is otherwise entitled to be recorded under the laws of this state, if the paper copy has been certified to be a true and correct copy of the electronic record by a notary public as evidenced by a certificate attached to or made a part of the record. The certificate:

(a) Shall:

1. Be signed and dated by the notary public;

2. Identify the jurisdiction in which the certification is performed;

3. Contain the title of the notary public; and

4. Indicate the number and date of expiration, if any, of the notary public's commission; and

(b) May include an official stamp of the notary public affixed to or embossed on the certificate.

(4) The following form of certificate is sufficient for the purposes of this section, if completed with the information required by subsection (3) of this section:

State of_____

[County] of_____

I certify that the foregoing and annexed document entitled_____

[document title], dated_____[document date, if applicable],

and containing_____pages is a true and correct copy of an electronic

document bearing one (1) or more electronic signatures.

Executed this_____[date].

_____

[Signature of notary public]

Stamp

[_____]

Notary Public

[My commission expires:_____]

[My notary registration number is:_____]

(5) A notary public duly commissioned under the laws of this Commonwealth or of another state within the United States has the authority to make the certification provided in this section.

(6) A notary public making the certification provided in this section shall:

(a) Personally print or supervise the printing of the electronic document onto paper;

(b) Not make any changes or modifications to the electronic document other than the certification described in subsection (3) of this section; and

(c) Confirm that the electronic document has been rendered tamper-evident.

(7) If a certificate is completed with the information required by subsection (3) of this section and is attached to or made a part of a paper record, the certificate shall be considered conclusive evidence that the requirements of this section have been satisfied with respect to the record.

(8) A record purporting to convey or encumber real property or any interest therein that has been recorded by a clerk for the jurisdiction in which the real property is located, although the record may not have been certified in accordance with the provisions of this section, shall import the same notice to third persons from the time of recording as if the record had been certified in accordance with the provisions of this section.

(9) This section shall not apply to a plat, map, or survey of real property if under another law of this state, or under a rule, regulation, or ordinance applicable to a clerk if:

(a) There are requirements of format or medium for the execution, creation, or recording of the plat, map, or survey beyond the requirements applicable to a deed to real property; or

(b) The plat, map, or survey must be recorded in a different location than a deed to real property.

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 32 and Sections 33 and 34 of this Act modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et seq., but do not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. sec. 7003(b).

➔SECTION 36. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO READ AS FOLLOWS:

In the event of a conflict between the provisions of this chapter and any other law in this state, the provisions of this chapter shall control.

➔Section 37. KRS 423.200 is amended to read as follows:

Notwithstanding any other provision of law, any certificate of an acknowledgment given and certified as provided by ***Sections 1 to 32 of this Act***~~[KRS 423.110 to 423.190]~~ or as provided by those sections and other provisions of law, together with the instrument acknowledged, may be admitted to the public record provided for the type of instrument so acknowledged, and any instrument required to be sworn to or affirmed in order to be recorded may be admitted to record upon a jurat recognized under the provisions of ***Sections 1 to 32 of this Act***~~[KRS 423.110 to 423.190]~~.

➔Section 38. KRS 369.103 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, KRS 369.101 to 369.120 applies to electronic records and electronic signatures relating to a transaction.

(2) KRS 369.101 to 369.120 does not apply to a transaction to the extent it is governed by:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts;

(b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2 and 2A of KRS Chapter 355; ***and***

(c) ~~[A law governing the conveyance of any interest in real property; and~~

~~(d)]~~A law governing the creation or transfer of any negotiable instrument or any instrument establishing title or an interest in title ***to a motor vehicle and governed by KRS Chapter 186 or 186A***.

(3) KRS 369.101 to 369.120 applies to an electronic record or electronic signature otherwise excluded from the application of KRS 369.101 to 369.120 under subsection (2) of this section to the extent it is governed by a law other than those specified in subsection (2) of this section.

(4) A transaction subject to KRS 369.101 to 369.120 is also subject to other applicable substantive law.

➔Section 39. KRS 382.230 is amended to read as follows:

(1) No conveyance of real property shall be void or invalid because of a failure by the county clerk to incorporate in his certificate to such conveyance an endorsement of acknowledgment made by his deputy thereon.

(2) When acknowledgments to conveyances of real property have been taken by a deputy clerk, and a note or memorandum thereof endorsed by him on the conveyance, and a certificate of such acknowledgment has been afterward written out by the principal clerk and signed by him as having been done by such deputy or as if the acknowledgment had been before such principal clerk, such conveyance and certificate, and the recording thereof, shall be valid although the note or memorandum made by the deputy was not copied into the certificate.

(3) No conveyance of real property certified, proven or lodged for record prior to June 17, 1924, shall be void or invalid because it was not certified, proven, or lodged for record as required by the law in force at the time, if it was certified or proven in the manner prescribed by the Act of 1910 c 82, or by KRS 382.130~~[, 382.140]~~ or 382.150.

➔SECTION 40. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

Documents physically presented to a county clerk for recording during regular business hours shall be considered for immediate recording if requested by the party presenting the documents, except that the county clerk may refuse unreasonable requests. Documents delivered by all other methods shall be processed as they are received, with priority assigned by the date the documents are received. All documents received on a given date shall have equal priority, and the county clerk shall have discretion to decide in what order documents are processed. A county clerk shall be held harmless for any disputes that arise regarding the timing of a recorded document.

➔Section 41. KRS 382.200 is amended to read as follows:

(1) Except as provided in subsection (2) of this section ***and Section 40 of this Act***, each county clerk shall make and keep an alphabetical cross-index of all conveyances recorded in his office, and when a mortgage or deed of trust, or any other conveyance, lease, or contract is lodged in his office for record, he shall, at once and before attending to any other business, place the names of the parties to the instrument upon the cross-index in his office, and shall within six (6) days thereafter record the instrument.

(2) Chattel mortgages, financing statements or security agreements shall be filed and recorded in the manner set out in KRS 355.9-519.

➔Section 42. KRS 382.280 is amended to read as follows:

Except as provided in Section 40 of this Act, all bona fide deeds of trust or mortgages shall take effect in the order that they are legally acknowledged or proved and lodged for record.

➔Section 43. KRS 64.012 is amended to read as follows:

(1) The county clerk shall receive for the following services the following fees:

(a) ***1.***~~[(1) (a)]~~ Recording and indexing of a:

a.~~[1.]~~ Deed of trust or assignment for the benefit of creditors;

b.~~[2.]~~ Deed;

c.~~[3.]~~ ~~[Real estate mortgage;~~

~~4.]~~Deed of assignment;

d. ***File-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State;***

e.~~[5.]~~ Real estate option;

f.~~[6.]~~ Power of attorney;

g.~~[7.]~~ Revocation of power of attorney;

h.~~[8.]~~ Lease which is recordable by law;

i.~~[9.]~~ Deed of release of a mortgage or lien under KRS 382.360;

j.~~[10.]~~ United States lien;

k.~~[11.]~~Release of a United States lien;

l.~~[12.]~~ Release of any recorded encumbrance other than state liens;

m.~~[13.]~~ Lis pendens notice concerning proceedings in bankruptcy;

n.~~[14.]~~Lis pendens notice;

o.~~[15.]~~Mechanic's and artisan's lien under KRS Chapter 376;

p.~~[16.]~~Assumed name;

q.~~[17.]~~Notice of lien issued by the Internal Revenue Service;

r.~~[18.]~~ Notice of lien discharge issued by the Internal Revenue Service;

s.~~[19.]~~ Original, assignment, amendment, or continuation financing statement;

t.~~[20.]~~ Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;

u.~~[21.]~~Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;

v.~~[22.]~~Recording with statutory authority for which no specific fee is set, except a military discharge;

w. ***Will or other probate document pursuant to KRS Chapter 392 or 394;***

x. ***Court ordered name change pursuant to KRS Chapter 401;***

y. ***Land use restriction according to KRS 100.3681;*** and

z.~~[23.]~~ Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed

five (5)~~[three (3)]~~ pages ..... ***$33.00***~~[$12.00]~~

And, for all items in this subsection exceeding ***five (5)***~~[three (3)]~~ pages,

for each additional page $3.00

And, for all items in this subsection for each additional reference

relating to same instrument $4.00

2.~~[(b)]~~ The ***thirty-three dollar ($33)***~~[twelve dollar ($12)]~~ fee imposed by ~~[paragraph (a) of]~~this subsection shall be divided as follows:

a.~~[1.~~ ***Twenty-seven dollars ($27)***~~[Six dollars ($6)]~~ shall be retained by the county clerk; and

b.~~[2.]~~ Six dollars ($6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.

(b) ~~[(2)~~ ~~[Recording and indexing a file-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State:~~

~~(a) The entire record thereof does not exceed three (3) pages .....$10.00~~

~~(b) And, exceeding three (3) pages, for each additional page .....$3.00~~

~~(3) Recording wills or other probate documents pursuant to KRS Chapter 392 or 394 .....$ 8.00~~

~~(4) Recording court-ordered name changes pursuant to KRS Chapter 401 .....$ 8.00~~

~~(5)]~~For noting a security interest on a certificate of title pursuant to KRS Chapter 186A $12.00

(c) ~~[(6)]~~ For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A $5.00

(d) ~~[(7)]~~ Filing or recording state tax or other state liens $5.00

(e) ~~[(8)]~~ Filing release of a state tax or other state lien $5.00

~~[(9) Marginal release, noting release of any lien, mortgage, or redemption other than a deed of release .....$8.00]~~

(f) ~~[(10)]~~ Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same ..... ***$5.00*** ~~[$4.00]~~

(g) ~~[(11) Recording a land use restriction according to KRS 100.3681 .....$15.00~~

~~(12)]~~ Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page ..... ***$40.00*** ~~[$20.00]~~

(h) ~~[(13)]~~ Recording a bond, for each bond $10.00

(i) ~~[(14)]~~ Each bond required to be taken or prepared by the clerk $4.00

(j) ~~[(15)]~~ Copy of any bond when ordered $3.00

(k) ~~[(16)]~~ Administering an oath and certificate thereof $5.00

(l) ~~[(17)]~~ Issuing a license for which no other fee is fixed by law $8.00

(m) ~~[(18)]~~ Issuing a solicitor's license $15.00

(n) ~~[(19)]~~ Marriage license, indexing, recording, and issuing certificate thereof .... ***$26.50*** ~~[$24.00]~~

(o) ~~[(20)]~~ Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not $3.00

(p) ~~[(21)]~~ Registration of licenses for professional persons required to register with the county clerk $10.00

(q) ~~[(22)]~~ Certified copy of any record $5.00
Plus fifty cents ($.50) per page after three (3) pages

(r) ~~[(23)]~~ Filing certification required by KRS 65.070(2)(a) $5.00

(s) ~~[(24)]~~ Filing notification and declaration and petition of candidates

for Commonwealth's attorney $200.00

(t) ~~[(25)]~~ Filing notification and declaration and petition of candidates for county and independent boards of education $20.00

(u) ~~[(26)]~~ Filing notification and declaration and petition of candidates for boards of soil and water conservation districts $20.00

(v) ~~[(27)]~~ Filing notification and declaration and petition of candidates for other office $50.00

(w) ~~[(28)]~~ Filing declaration of intent to be a write-in candidate for office $50.00

(x) ~~[(29)]~~ Filing petitions for elections, other than nominating petitions $50.00

(y) ~~[(30)]~~ Notarizing any signature, per signature $2.00

(z) ~~[(31)]~~ Filing bond for receiving bodies under KRS 311.310 ..... $10.00

(aa) ~~[(32)]~~ Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127 ..... $27.00

(ab) ~~[(33)]~~ Filing a going-out-of-business permit under KRS 365.445 ..... $50.00

(ac) ~~[(34)]~~ Filing a renewal of a going-out-of-business permit under KRS 365.445 ..... $50.00

(ad) ~~[(35)]~~ Filing a grain warehouseman's license under KRS 359.050 ..... $10.00

(ae) ~~[(36)]~~ Filing and processing a transient merchant permit under KRS 365.680 ..... $25.00

(af) Recording and indexing a real estate mortgage:

1. For a mortgage that does not exceed thirty (30) pages $63.00

2. And, for a mortgage that exceeds thirty (30) pages, for each additional page $3.00

(2) The sixty-three dollar ($63) fee imposed by subsection (1)(af) of this section shall be divided as follows:

(a) Fifty-seven dollars ($57) shall be retained by the county clerk; and

(b) Six dollars ($6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.

(3) For services related to the permanent storage of records listed in paragraphs (a), (g), (n), and (af) of subsection (1) of this section, the clerk shall be entitled to receive a reimbursement of ten dollars ($10).

➔Section 44. KRS 382.240 is amended to read as follows:

Each instrument that is recorded shall be delivered to the party entitled thereto. The county clerk shall require prepayment of postage ***and a three dollar ($3) reimbursement*** for delivery of said instruments at the time they are left for record in his office. If the county clerk is unable to locate the parties entitled thereto, he shall retain the instruments for at least ***one (1) year*** ~~[two (2) years]~~. The clerk may then destroy the instruments ~~[provided that he shall first make the following announcement by public notice in the newspaper of the largest circulation in the county: "Legal instruments which have been filed for record in the (name of county) county clerk's office and which have been in the custody of the clerk for over two (2) years must be claimed by the persons entitled thereto within thirty (30) days, or they shall be destroyed." The date of the notice and the name of the clerk shall be appended to the notice. Thirty (30) days after the appearance of the public notice, the county clerk may destroy the instruments]~~.

➔Section 45. KRS 382.360 is amended to read as follows:

(1) Liens by deed or mortgage may be discharged by an entry acknowledging their satisfaction on the margin of the record thereof, or in the alternative, at the option of the county clerk, in a marginal entry record, signed by the person entitled thereto, or his or her personal representative or agent, and attested by the clerk, or may be discharged by a separate deed of release, which shall recite the date of the instrument and deed book and the page wherein it is recorded. Such release in the case of a mortgage or deed of trust shall have the effect to

reinstate the title in the mortgagor or grantor or person entitled thereto. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instruments.

(2) If a lien or mortgage is released by a deed of release, the clerk shall immediately, at the option of the clerk, either link the release and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or endorse on the margin of the record wherein the lien is retained "Released by deed of release (stating whether in whole or in part) lodged for record (giving date, deed book and page wherein such deed of release may be found)" and the clerk shall also attest such certificate.~~[The clerk shall cause the original deed of release to be delivered to the mortgagor or grantor or person entitled thereto.]~~

(3) When a mortgage is assigned to another person, the assignee shall file the assignment for recording with the county clerk within thirty (30) days of the assignment and the county clerk shall attest the assignment and shall note the assignment in the blank space, or in a marginal entry record, beside a listing of the book and page of the document being assigned. Provided, however, that an assignee that reassigns the note prior to the thirtieth day after first acquiring the assignment may request that the subsequent assignee file the unfiled assignment with the new reassignment.

(4) Delivering an assignment to the assignee or a lien release to the mortgagor shall not substitute for filing the assignment or release with the county clerk, as required by this section.

(5) Notwithstanding the provisions of this section, nothing in this chapter shall require the legal holder of any note secured by lien in any deed or mortgage to file a release of any mortgage when the mortgage securing such paid note also secures a note or other obligation which remains unpaid.

(6) Failure of an assignee to record a mortgage assignment shall not affect the validity or perfection, or invalidity or lack of perfection, of a mortgage lien under applicable law.

➔Section 46. (1) The Legislative Research Commission shall create a task force on issues regarding the implementation of electronic recording, fees or functions of the county clerk involved in the recording of documents, issues concerning notaries public or notarial officers, or any further legislation relating to this Act.

(2) The task force shall comprehensively investigate the electronic recording process in the Commonwealth to identify policy options to streamline the process of recording and notarizing documents, increasing efficiency, reducing costs, and decreasing paperwork and redundancy.

(3) The task force shall review studies and legislative action by other estates and by the federal government on notarizing and recording public documents.

(4) The task force shall be composed of the following members, with final membership subject to the consideration and approval of the Legislative Research Commission:

(a) One member of the House of Representatives, appointed by the Speaker of the House of Representatives, who shall be designated to serve as co-chair;

(b) One member of the Senate, appointed by the President of the Senate, who shall be designated to serve as co-chair;

(c) Four county clerks, one who is the current chair of the recording committee of the Kentucky County Clerks Association and three clerks designated by the President of the County Clerk's Association;

(d) Two attorneys selected from a list of three attorneys of the Real Estate Section of the Kentucky Bar Association submitted by the Kentucky Bar Association, one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President of the Senate;

(e) Two representatives of the banking industry selected from a list of three individuals submitted by the Kentucky Bankers Association, one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President of the Senate;

(f) Two representatives of the mortgage banking industry from a list of three individuals submitted by the Kentucky Mortgage Bankers Association, one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President of the Senate;

(g) Two representatives of the land title industry selected from a list of three individuals submitted by the Kentucky Land Title Association, one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President of the Senate;;

(h) One representative from the Secretary of State's office submitted by the Secretary of State; and

(i) Two representatives from either e-recording or e-notary companies doing business in Kentucky nominated by the Secretary of State, one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President of the Senate.

➔Section 47. The task force shall meet at least four times during both the 2019 and the 2020 legislative interims, and shall submit its findings and recommendations to the Legislative Research Commission no later than December 1, 2020.

➔Section 48. Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

➔Section 49. Sections 46 and 47 of this Act shall have the same legal status as a Senate Concurrent Resolution.

➔Section 50. The following KRS sections are repealed:

382.140 Recording of deeds executed out of state.

382.190 Unrecorded deeds to be advertised by clerk.

423.010 Appointment, term, and qualifications of notaries -- County clerk has powers of notary when acting in capacity as clerk.

423.020 Notary may act in any county -- Certification of notary's authority.

423.030 Protests to be recorded -- Copies as evidence.

423.040 Notice of dishonor -- To whom sent.

423.050 Records of notary to be delivered to county clerk, when.

423.060 Foreign notary -- When protest by is evidence.

423.070 Commissioners of foreign deeds -- Appointment, term.

423.080 Powers of commissioners.

423.990 Penalties.

➔Section 51. This Act shall take effect January 1, 2020.

Signed by Governor March 25, 2019.

CHAPTER 87

(HCR 137)

A CONCURRENT RESOLUTION urging local communities in Kentucky to establish Complete Count Committees in order to localize Census efforts.

WHEREAS, the 2020 Census is almost one year away and Kentucky needs to ensure a maximum response rate; and

WHEREAS, Kentucky must count every resident in order to ensure appropriate representation in the Kentucky General Assembly and the United States Congress; and

WHEREAS, the 1990 Census count resulted in a loss of one congressional seat for the Commonwealth of Kentucky; and

WHEREAS, according to a study from the Census Bureau, over 132 federal programs use Census data to distribute funds, and research from George Washington University shows that more than $15 billion in annual federal spending on Kentucky is guided by data derived from the Census; and

WHEREAS, Kentucky needs to maximize the 2020 Census response rates among households in counties across the Commonwealth, and low response rates can result in undercounts of population that affect Congressional apportionment and funding levels for local programs; and

WHEREAS, the United States Census Bureau recommends each state create a state Complete Count Committee with the goals of heightening awareness about the 2020 Census and encouraging the populace to participate in the United States Census of Population; and

WHEREAS, on March 14, 2018, Governor Matthew G. Bevin established by executive order a task force known as the Kentucky Complete Count Task Force to develop an action plan for maximizing responses to the Census;

NOW, THEREFORE,

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

➔Section 1. The General Assembly of the Commonwealth of Kentucky urges local communities throughout Kentucky to establish local Complete Count Committees and to engage in publicity, outreach, and educational efforts to community leaders in an effort to overcome cultural, economic, technological, and linguistic barriers to participation in the Census.

➔Section 2. The General Assembly of the Commonwealth of Kentucky further urges all local governments, leaders, media, and stakeholders, including citizens of Kentucky, to fully prepare and participate in planning for the 2020 Census.

➔Section 3. The Clerk of the House of Representatives shall send a copy of this Resolution and notification of its adoption to the Kentucky Association of Counties, 4000 Englewood Drive, Frankfort, Kentucky 40601; the Kentucky League of Cities, 100 East Vine Street, Suite 800, Lexington, Kentucky 40507; and to Governor Matthew G. Bevin, State Capitol, Room 100, Frankfort, Kentucky 40601.

Signed by Governor March 25, 2019.

CHAPTER 88

(SB 153)

AN ACT relating to grain.

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

➔Section 1. KRS 246.120 is amended to read as follows:

(1) The board shall consist of ***eighteen (18)***~~[fourteen (14)]~~ members as follows:

(a) The commissioner ***or the commissioner's designee,*** who shall be a voting member and serve as chairman;

(b) The ***dean of the University of Kentucky College of Agriculture, Food and Environment or the dean's designee,***~~[director of the agricultural experiment station]~~ who shall be a voting member and serve as vice chairman;

(c) ***Thirteen (13)***~~[Nine (9)]~~ citizens of the Commonwealth appointed by the Governor who shall serve as voting members***, specifically:***~~[;]~~

1. Four (4) members who are farmers with experience in crop production, each of whom shall be selected from a list of at least three (3) individuals nominated by the Kentucky Corn Growers Association, the Kentucky Small Grain Growers Association, the Kentucky Soybean Association, or other similar trade organizations or commodity groups;

2. Four (4) members who are farmers with experience in animal agriculture, each of whom shall be selected from a list of at least three (3) individuals nominated by the Kentucky Cattlemen's Association, the Kentucky Dairy Development Council, the Kentucky Pork Producers Association, the Kentucky Poultry Federation, the Kentucky Sheep and Goat Development Office, or other similar trade organizations or commodity groups;

3. Three (3) members who shall be appointed from the state at large who are farmers with due consideration to geographical distribution throughout the state and industry representation;

4. One (1) member who shall be appointed from a list of at least three (3) individuals nominated by the AgriBusiness Association of Kentucky or other similar trade organizations representing agribusiness; and

5. One (1) member who shall be appointed from a list of at least three (3) individuals nominated by the Kentucky Farm Bureau Federation;

(d) The state president of the ***Kentucky FFA Association***~~[Future Farmers of America]~~ who shall serve as a nonvoting member ***for the duration of his or her term***;

(e) The state president of the ***Kentucky*** Young Farmers ***Association***~~[of America]~~ who shall serve as a nonvoting member ***for the duration of his or her term***; and

(f) The state president of the ***Kentucky*** 4-H~~[Club]~~ who shall serve as a nonvoting member ***for the duration of his or her term***.

(2) ***The members who serve on the board and were appointed by the Governor shall serve four (4) year terms and shall serve until their successors are duly appointed and qualified. The initial appointments shall be for staggered terms, as follows:***

(a) Three (3) members shall be appointed for one (1) year;

(b) Three (3) members shall be appointed for two (2) years;

(c) Three (3) members shall be appointed for three (3) years; and

(d) Four (4) members shall be appointed for four (4) years~~[The nine (9) voting members from the state at large shall be experienced and practical farmers or agriculturalists]~~. No more than ***eight (8)***~~[five (5)]~~ of the ***thirteen (13)***~~[nine (9)]~~ shall belong to the same political party.

(3) Upon the expiration of the term of ***a***~~[each]~~ member of the board~~[, and every four (4) years thereafter]~~, the Governor shall appoint a successor. ***A board member whose term has expired shall serve until a replacement has been appointed and qualified. No person shall serve on the board for more than twelve (12) years.***

(4) The board shall be a body corporate under the corporate name "State Board of Agriculture" and shall have the usual corporate powers.

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

The board shall meet at least four (4) times per year to consider the general agricultural, horticultural, and forestry interests of the state, and to take the necessary steps for carrying out the purpose of the board. The Commissioner may, and at the request of ***eight (8)***~~[six (6)]~~ of its voting members~~[shall]~~, call its meetings and the board may adjourn any meeting to a time and place as may be determined. ***Eight (8)***~~[Six (6)]~~ voting members shall constitute a quorum. ***Eight (8)***~~[Six (6)]~~ members may call the board together for the transaction of business if the Commissioner, upon their request, refuses to do so.

➔SECTION 3. KRS 251.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

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

(1) "Board" means the State Board of Agriculture;

(2) "Claimant" means a person who:

(a) Possesses scale tickets, settlement sheets, ledger cards, or other written evidence of ownership of fund-covered grain stored or possessed by a licensee;

(b) Possesses warehouse receipts relating to fund-covered grain owned, stored, or possessed by a licensee; or

(c) Possesses written evidence of a sale of fund-covered grain to a licensee but did not receive full payment for the grain sold;

(3) "Cooperative agreement" means an agreement made by the board with a state or federal agency for the purpose of carrying out the provisions of this chapter;

(4) "Department" means the Kentucky Department of Agriculture;

(5) "Depositor" means any person who deposits grain in a grain warehouse for storage, handling, shipment, or is the owner or legal holder of an outstanding warehouse receipt, or who is lawfully entitled to possession of the grain;

(6) "Facility" means a single location with one (1) or more structures used for the storage or handling of grain;

(7) "Failure" means the occurrence of one (1) or more of the following events:

(a) A licensee's inability to pay for storage obligations in accordance with requirements set forth in statute, administrative regulation, or contract;

(b) A public declaration of insolvency;

(c) A revocation of a grain dealer license or grain warehouse operator license and an outstanding obligation or indebtedness by the licensee;

(d) A failure to pay a producer in the ordinary course of business and a bona fide dispute does not exist between the licensee and the producer;

(e) A failure to deliver a grain to a depositor in the ordinary course of business and a bona fide dispute does not exist between the licensee and the depositor;

(f) A failure to make timely application for license renewal; or

(g) A denial of license renewal application;

(8) "Forward pricing contract" means an agreement for sale which provides that:

(a) Title passes at the time of delivery; and

(b) The price will be determined at a later date;

(9) "Fund" means the Kentucky grain insurance fund established by Section 21 of this Act;

(10) "Fund-covered grain" means grain as used in Section 13 of this Act;

(11) "Grain" means corn, wheat, soybeans, rye, barley, oats, grain sorghums, or popcorn;

(12) "Grain dealer" means any person engaged in the business of buying grain from producers for resale, milling, or processing. A producer of grain buying grain for the producer's own use as seed or feed shall not be considered to be engaging in the business of buying grain for resale, milling, or processing;

(13) "Grain warehouse operator" means a person who owns, controls, operates, or manages any public grain warehouse in which grain is stored for compensation;

(14) "Gross value" means the value of grain after deductions for quality discounts, including but not limited to discounts for excessive moisture or foreign matter, but before deductions for storage or marketing charges;

(15) "Person" means any individual, partnership, firm, corporation, limited liability company, or other corporate entity created under the laws of the Commonwealth or any other jurisdiction;

(16) "Producer" means the owner, tenant, or operator of land who has an economic or financial interest in grain or receives all or any part of the proceeds from the sale of grain;

(17) "Seed" means grain that is set aside to be used for the purpose of producing new plants;

(18) "Warehouse" means any building, structure, or other protected enclosure, permanent or temporary, used or useable for the storage or conditioning of grain. Buildings used in connection with or operation of the grain warehouse shall be deemed part of the warehouse; and

(19) "Warehouse receipt" means a document of title issued by a person engaged in the business of storing grains for compensation.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this chapter is to promote the welfare of the Commonwealth and its people, and to provide economic stability for its agricultural and agribusiness industries, by:

(a) Establishing a system of licensure for persons engaging in the business of grain dealing;

(b) Establishing a system of licensure for persons engaging in the business of grain warehouse operating; and

(c) Establishing a grain insurance fund of which the purpose is to:

1. Protect producers of fund-covered grains against risk of loss in the event of a licensed grain dealer or grain warehouse operator's financial failure; and

2. Compensate eligible claimants of fund-covered grains for losses due to the failure of a licensed grain dealer or grain warehouse operator.

(2) The board, in conjunction with the department, shall be responsible for adopting and overseeing the policies, procedures, and programs to effectuate the purposes identified in this section.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving grain, a licensee shall issue a scale ticket to the depositor.

(2) Upon request from a representative of the department, a licensee shall produce for inspection and copying the scale tickets and any other documents that were issued for received grain.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Every scale ticket issued by a licensed grain dealer or a licensed grain warehouse operator shall include the following information in writing:

(a) A statement indicating whether the delivery was inbound or outbound;

(b) The name of the depositor for inbound delivery or consignee for outbound delivery;

(c) The date of delivery;

(d) The name and street address of the location where the grain was delivered;

(e) The quantity of the grain that was delivered, in bushels or pounds;

(f) The kind and grade of grain delivered, unless its identity is preserved by placing it in a special bin or a special pile which has a unique or identifying mark that appears on the receipt;

(g) A statement whether the grain is being sold at a specified price or being delivered pursuant to a forward pricing contract whose terms were pre-approved by a representative of the department; and

(h) The scale ticket's serial number.

(2) Grain received by a licensee shall be weighed on department-approved scales.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be or act as a grain dealer in the Commonwealth without holding a valid grain dealer license issued by the department.

(2) No person shall engage in the business of buying grain from producers for resale, milling, or processing in the Commonwealth without holding a valid grain dealer license issued by the department; provided, however, that no license shall be required in order to buy grain from sellers who are not producers of grain.

(3) No person shall be or act as a grain warehouse operator in the Commonwealth without holding a valid grain warehouse operator license issued by the department.

(4) No person shall own, control, operate, or manage any public warehouse in which grain is stored for compensation in the Commonwealth without holding a valid grain warehouse operator license issued by the department.

(5) Any person who possesses unpaid-grain for more than thirty (30) days shall be deemed to be acting as a grain warehouse operator and shall be subject to the licensing and financial requirements for grain warehouse operators under the provisions of this chapter.

(6) Licenses issued by the department shall be valid for a period of time not to exceed one (1) year and shall expire on June 30 each year.

(7) A separate license shall be required for each facility in the Commonwealth.

(8) The board, in conjunction with the department, shall promulgate administrative regulations setting forth a schedule of fees for licensed grain warehouse operators. Any changes to the schedule of fees shall be approved by a majority vote of the board. The schedule of fees shall be reviewed by the board at least one (1) time every four (4) years. The annual increase in board-approved license fees shall be limited to five percent (5%) and shall not exceed twenty percent (20%) over any four (4) year period.

(9) The board, in conjunction with the department, shall promulgate administrative regulations setting forth a schedule of fees for licensed grain dealers. Any changes to the schedule of fees shall be approved by a majority vote of the board. The schedule of fees shall be reviewed by the board at least one (1) time every four (4) years. The annual increase in board-approved license fees shall be limited to five percent (5%) and shall not exceed twenty percent (20%) over any four (4) year period.

(10) The department shall have the authority to suspend or revoke a license if the board or department determines the licensee has violated a provision of this chapter or any administrative regulation promulgated under this chapter.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Receipts collected from grain dealer or grain warehouse operator licensing fees shall be used by the department to offset the cost of:

(a) The salary and benefits for employees in the department's Division of Regulation and Inspection; and

(b) The vehicles, mileage, training, legal fees, accounting fees, and other expenses incurred by the department of the board in connection with the provisions authorized by this chapter.

(2) Receipts collected from grain dealer or grain warehouse operator licensing fees shall not be deposited in, or used to pay expenses incurred in connection with, the administration of the Kentucky grain insurance fund.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) The department shall not issue or renew a grain dealer or grain warehouse operator license under this chapter until the applicant or licensee has filed with the department satisfactory evidence of financial responsibility.

(2) Evidence of financial responsibility shall:

(a) Consist of:

1. A surety bond, executed by the applicant as principal, and issued by a corporate surety authorized to conduct business in this state;

2. A certificate of deposit issued by a federally insured financial institution in this state;

3. An irrevocable letter of credit issued by a federally insured financial institution in this state;

4. Other security, as deemed acceptable by the department; or

5. Any combination of subparagraphs 1. to 4. of this paragraph, so long as the aggregate value of the evidence meets the requirements of this section;

(b) Be made payable to the board;

(c) Be in an amount meeting the requirements of this section;

(d) In the case of a bond, be conditioned upon the faithful performance of:

1. All obligations of a licensee under the terms of this chapter and any administrative regulations promulgated under it, from the effective date of the bond until the license is revoked, denied, or suspended or the bond is canceled, whichever comes first; and

2. Any obligations the applicant or licensee may contract for with producers, depositors, or other persons placing grains in the applicant's or licensee's facilities, from the effective date of the bond and thereafter, regardless of whether or not the applicant's or licensee's facility remains the subject of a valid license;

(e) Be filed with and remain in possession of the department until it is released, canceled, or discharged as provided for by the terms of this chapter and any administrative regulations promulgated under it;

(f) Be kept in force at all times while the licensee is operating as a grain warehouse operator or grain dealer. Failure to keep the bond or other security in force shall be cause for revocation of the license, and shall subject the licensee to criminal penalties set forth in Section 25 of this Act; and

(g) Contain a provision stating that it may not be canceled by any party, except upon ninety (90) days' notice in writing to the department. A notice of cancellation shall not affect any liability accrued before the expiration of the notice period.

(3) Separate proof of financial responsibility shall be required for each facility that is licensed by the department.

(4) For any security used as evidence under subsection (2) of this section that bears interest, the interest shall be made payable to the purchaser of the security.

(5) No person may release, cancel, or discharge security filed with the department under subsection (1) of this section without prior approval of the department and its approval of a substitute bond or other security.

(6) If the department questions a licensee's ability to pay producers and depositors for grain, or if the department determines that the licensee does not have a sufficient net worth to meet the licensee's financial obligations, the department shall require the licensee to file additional security with the department in an amount equal to the insufficiency. Failure to post the additional security shall constitute grounds for suspension or revocation of a license.

(7) The amount of the security required by subsection (1) of this section shall be in a principal amount, to the nearest one thousand dollars ($1,000), that is equal to ten percent (10%) of:

(a) For a licensed grain dealer, the aggregate dollar amount:

1. That was paid by the dealer for grain purchased in the dealer's most recently completed fiscal year; or

2. That the department estimates will be paid by the grain dealer for grain purchased in the grain dealer's current fiscal year, if records for the grain dealer's most recently completed fiscal year do not exist or are not available; and

(b) For a licensed grain warehouse operator, the aggregate dollar value of:

1. The grain deposited in the grain warehouse operator's most recently completed fiscal year; or

2. The grain the department estimates will be deposited in the operator's warehouse during the current fiscal year, if records for the warehouse operator's most recently completed fiscal year do not exist or are not available.

(8) In no event shall the required security for a licensee be less than twenty five thousand dollars ($25,000) nor more than one million dollars ($1,000,000).

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) A licensee using paper scale tickets, settlement sheets, or purchase contracts shall comply with the following requirements:

(a) Documents shall be pre-numbered sequentially; and

(b) Settlement sheet information shall be cross-referenced with scale tickets.

(2) A licensee using electronic scale tickets, settlement sheets, purchase contracts, or other documents shall conform to the formats and procedures required by the department.

(3) A licensee shall provide, and make available to the department or the board, a complete and accurate set of business records, including:

(a) Records of all transactions, including records and accounts of all grains received and withdrawn or delivered;

(b) Records, filed in numerical order, of all scale tickets, warehouse receipts, and settlement sheets that have been issued, voiced, or lost; and

(c) Copies of contracts for the sale or storage of grain.

(4) A licensee shall retain its business records for a minimum of four (4) years.

(5) A licensed grain warehouse operator shall retain copies, either digitally or on paper, of warehouse receipts or other documents evidencing ownership of any grain, or any liability of the grain warehouse operator, so long as such documents evidence a valid ownership interest or debt. A licensee shall retain copies of such documents for a period of not less than four (4) years from the date when the ownership interest or debt was extinguished.

(6) A licensee's accounting functions shall be performed in conformity with generally accepted accounting principles.

(7) A licensee's business records shall accurately identify any liens or encumbrances on grain that is held or owned by the licensee.

(8) A licensee shall provide to the department at least once annually, and upon request, an audited financial statement that is certified by the licensee, its owner, or other officer to be an accurate reflection of the licensee's financial condition, except when exempted by subsection (5) of Section 19 of this Act.

(9) The board, in conjunction with the department, shall have authority to promulgate administrative regulations setting forth additional recordkeeping requirements for licensees.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) No licensee shall enter into forward pricing contracts without first attaining approval from the department to enter into these contracts. A licensee entering into forward pricing contracts shall keep any records and ledgers the department deems necessary to document the licensee's obligations.

(2) A licensee that has entered into a forward pricing contract shall make a copy available for inspection by the department or the board upon request.

(3) Forward pricing contracts shall be in writing.

(4) The board, in conjunction with the department, shall promulgate administrative regulations setting forth the minimum information that shall be included in any forward pricing contract entered into by a licensee.

(5) By the tenth day of each month, any licensee that has entered into a forward pricing contract shall submit to the department a report accurately reflecting its position on the last day of the previous month.

(6) A licensee which has entered into one (1) or more forward pricing contracts shall maintain at least eighty percent (80%) of the value of the licensee's unpaid obligations for all grain purchased under forward pricing contracts, using one (1) or more of the following:

(a) Grain maintained in storage in the licensee's warehouse or other storage facilities;

(b) Rights to grain as evidenced by a warehouse receipt or scale ticket for storage of the grain under an agreement with another warehouse approved by a representative of the department; or

(c) Proceeds from the sale of grain as evidenced by one (1) or more of the following:

1. Funds held in a separate account, designated for the benefit of unpaid sellers of grain that was delivered under forward pricing contracts, in a state or federally licensed financial institution or a lending agency of the Farm Credit Administration;

2. Short-term investments held in time accounts, designated for the benefit of unpaid sellers of grain that was delivered under forward pricing contracts, in a state or federally licensed financial institution or a lending agency of the Farm Credit Administration; or

3. Other evidence of unencumbered security or assets acceptable to the department, including but not limited to an irrevocable letter of credit or surety bond.

(7) If the department or the board determines that a licensee does not have sufficient net worth to satisfy the indebtedness, the department shall prohibit the transfer or disbursement of any grain, property, or assets except for the satisfaction of unpaid obligations for grain that was delivered under forward pricing contracts. Disbursements of payments to sellers shall be made on a pro rata basis of the value of the remaining grain.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) The department shall inspect each licensed grain warehouse at least two (2) times each year. The department's inspection shall include:

(a) A determination whether the grain in storage is properly accounted for;

(b) An assessment of the storage facilities for fitness; and

(c) An assessment of the condition of the grain in storage.

(2) The department shall permit a licensee to store grain at another facility that is licensed and located in the Commonwealth of Kentucky, if the requirements for a surety bond or other evidence of financial responsibility set forth in Section 9 of this Act are satisfied.

(3) A licensee that is short of grain may cover the shortage by:

(a) Acquiring additional bond on one hundred percent (100%) of the value of the grain; or

(b) Depositing the shortage value of the grain into a special account that is payable jointly to the licensee and the department.

(4) The department may allow a licensee that is short of grain to substitute one (1) type of grain for another type of grain on a dollar-for-dollar basis.

(5) The department shall inspect each licensed grain dealer at least one (1) time each year. The department's inspection shall include:

(a) An inspection of the licensee's scale tickets, settlements, and canceled checks; and

(b) Verification that payments are made by the dealer within thirty (30) days of the completion of delivery.

(6) A licensee that is short of grain shall correct any deficiencies identified by the department within the deadline mandated by the department.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) The following grains shall be fund-covered grains:

(a) Corn, wheat, soybeans, grain sorghums, rye, barley, oats, or popcorn; and

(b) Other grains that may be approved for "fund-covered grain status" by a majority vote of the board.

(2) The board shall not approve for "fund-covered grain status" any grain that is not publicly traded on at least one (1) exchange in the United States or Canada.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsections (2) and (3) of this section, any claimant who delivers fund-covered grain to a licensed grain dealer or licensed grain warehouse operator shall be eligible for coverage by the fund without regard to whether the claimant resides in Kentucky or another state.

(2) Any person who submits to the department, not later than January 31, a written notice of intent not to be covered by the fund, shall:

(a) Be entitled to receive from the board a refund of any assessments collected from that person pursuant to Section 21 of this Act during the course of that calendar year; and

(b) Remain ineligible for coverage and compensation by the fund for any grain that may be delivered by or on behalf of that person to any licensee during the course of that calendar year.

(3) By submitting a timely written notice of intent not to be covered by the fund as provided under subsection (2) of this section, a person foregoes any protection or eligibility for compensation from the fund for grain that may be delivered during the course of that calendar year. The written notice shall:

(a) Be effective with respect to eligibility for coverage only to the fund-covered grain delivered in that calendar year; and

(b) Not have any effect with respect to eligibility for coverage for fund-covered grain delivered in previous calendar years or in subsequent calendar years.

(4) Any person who does not submit to the department, on or before January 31, a written notification of intent not to be covered by the fund shall:

(a) Not be entitled to receive a refund of any assessments that may be collected from that person pursuant to Section 21 of this Act during the course of that calendar year; and

(b) Remain eligible for coverage by the fund for any fund-covered grain delivered by or on behalf of that person to any licensee during the course of that calendar year.

(5) Any person who submits a written notice of intent not to be covered by the fund shall be deemed also to have given notice of intent not to be covered to the extent of his, her, or its ownership interest in any other entities in which he, she, or it holds such an interest.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) When a depositor stores grain with a grain warehouse operator and has written evidence of ownership disclosing a storage obligation, the producer or other depositor has a first priority lien on the grain, the proceeds from the grain, or on grain owned by the grain warehouse operator. The lien terminates when the storage liability of the grain warehouse operator to the depositor terminates.

(2) The lien created under this section shall be preferred to any lien or security interest of any creditor to the grain warehouse operator, regardless of whether the creditor's lien or security interest was attached to the grain or proceeds before or after the date on which the producer or other depositor's lien was attached.

(3) A depositor who claims a lien under this section need not file any notice of the lien in order to perfect the lien.

(4) The lien created under this section is discharged, except as to the proceeds therefrom and except as to grain owned by the grain warehouse operator, upon sale of the grain by the warehouse operator to a buyer in the ordinary course of business.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) When the board determines there has been a failure involving a licensed grain dealer or licensed grain warehouse operator, the board shall have the authority to:

(a) Take receivership of any grain on the licensee's premises to ensure that it is not destroyed, lost, stolen, or otherwise disposed of;

(b) Sell the grain and place the proceeds in escrow for the benefit of the owners, or for the benefits of claimants, when the identities of those persons have been identified;

(c) Establish a priority lien on any grain or other assets that remain in the licensee's possession, custody, or control;

(d) Secure and take possession of any grains or other commodities in the possession, custody, or control of the failed grain dealer or grain warehouse operator for the purpose of using it to cover outstanding storage obligations. If there is insufficient grain to cover outstanding shortage obligations, the board shall determine each depositor's pro rata share of the value of the remaining grain. Any remaining deficiency shall be considered a claim of the producer or depositor against the fund, if applicable. Each grade of grain shall be treated separately for the purpose of covering outstanding storage obligations and calculating claims against the fund;

(e) Commence action upon the surety bond, certificate of deposit, letter of credit, or temporary surety as required by Section 9 of this Act. The board may commence action against both the licensee and the surety or other financial institution in the Franklin Circuit Court or a Circuit Court in the county where the grain is located;

(f) Deposit into the fund any remaining assets of the failed grain dealer or grain warehouse operator for the purpose of using those assets to pay claimants;

(g) Establish a period of time, not less than thirty (30) days and not greater than one (1) year, for potential claimants to file their claims with supporting documentation;

(h) Make a public announcement of the procedure and deadline for potential claimants to file their claims;

(i) Examine timely filed claims and make such investigation as may be necessary for the board to determine whether a claim is a valid claim;

(j) Determine which of the claims that were submitted in advance of the deadline are valid claims;

(k) Assign to each valid claim an initial value computed as a percentage of the value of the grain on the date when it was delivered by the claimant to the licensee, relying on the value established for that

grain by the Chicago Board of Trade on the date of delivery. If there is no price information from the Chicago Board of Trade for that grain on that date, then the board shall rely on price information from another exchange in the United States or Canada. If there is no price information from any exchange in the United States or Canada for that grain on that date, the board shall determine an alternative method for determining a value for that grain on that date;

(l) Compute claim values by applying these percentages to each valid claim's initial value:

1. One hundred percent (100%), for valid claims that are evidenced by a grain warehouse receipt issued by a federally licensed warehouse; or

2. A minimum of ninety percent (90%), for all other valid claims; and

(m) Notify each claimant in writing of the board's determination as to:

1. The validity of the claim;

2. The value of the grain claimed by the claimant;

3. The amount and percent of value that will be reimbursed by the fund; and

4. The claimant's right to request a hearing on his or her claim within thirty (30) days of the claimant's receipt of the written notification.

(2) The board shall not approve for payment from the fund any claims with respect to grains that are not fund-covered grains.

(3) The board shall not compute a claim's value in reliance on the price or other terms of agreement between a claimant and a licensee.

(4) If a producer or other depositor fails to file a claim within the time announced by the board, then the board and the fund shall not be liable to that depositor.

(5) If the board fails to commence action against the surety bond, certificate of deposit, letter of credit, or temporary surety that Section 9 of this Act required the licensee to obtain within thirty (30) days of a depositor making a written demand that the board commence action, then the depositor shall have a right of action against the licensee to recover damages suffered by reason of the licensee's failure. The depositor shall give the board immediate written notice of the commencement of such action.

(6) The board shall deny payment from the fund to a claimant when the board determines that the claimant:

(a) Elected to opt out of coverage, as permitted by Section 14 of this Act; or

(b) Engaged in conduct or practices which substantially contributed to the claimant's financial loss.

(7) A claimant who accepts payment from the fund shall be deemed to have assigned to the board all of the claimant's rights, title, and interest in the grain and in any judgment with respect to the grain. The board shall have the authority to initiate or maintain any civil action it deems necessary to compel a licensee or a former licensee to repay to the fund any sums disbursed therefrom in relation to a claim.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

Any person injured by the violation of any provision in this chapter may bring an action against the person or corporation that committed the violation to recover damages sustained due to the violation without regard to whether or not the person or corporation committing the violation has been subjected to other civil or criminal penalties.

➔Section 18. KRS 251.020 is amended to read as follows:

The~~[State]~~ board~~[of Agriculture]~~ shall ***have the following powers, and all powers incidental or necessary to same, in carrying out the duties set forth in Section 4 of this Act, in addition to the powers enumerated elsewhere within this chapter and in other chapters to***:

(1) ~~[Have general supervision of the administration of the provisions of this chapter;~~

~~(2) Make and ~~]~~Promulgate ***administrative***~~[such]~~ regulations***, in conjunction with the department,***~~[as are]~~ necessary ***for the proper administration and enforcement of the provisions of this chapter, and for the accomplishment of the purposes intended by this chapter***~~[or desirable to effectuate the purposes of this chapter]~~;

(2) ~~[(3)]~~ ***Enter into cooperative agreements with state agencies, federal agencies, universities, and other entities;*** ~~[Make such reasonable regulations with respect to the construction and maintenance of granaries, cribs, bins or other receptacles as may be necessary to protect the grain stored there under this chapter; and]~~

(3) ~~[(4)]~~ ***Make application to the Franklin Circuit Court, or a Circuit Court in the county where the licensed grain facility is located, for an order enjoining actions on the part of any person that would constitute a violation of any section of this chapter or any administrative regulation promulgated under the authority of this chapter;*** ~~[Prepare and have printed under the same conditions as other state printing the necessary blanks, forms and other printed matter, and make such charges to persons desiring the printed matter as shall meet the cost of production.]~~

(4) Bring or defend civil actions that relate to the provisions of this chapter, the department's actions, or the board's actions under the authority of this chapter. Legal expenses incurred shall be approved for payment by the board; and

(5) Take disciplinary action against any current or former licensee.

➔Section 19. KRS 251.440 is amended to read as follows:

(1) Application for license ***as a grain warehouse operator or grain dealer*** shall***:***

(a) Set forth the name of the applicant, its principal officer, if a corporation, or the active members of a partnership if a partnership***;*** ~~[, and the]~~

(b) ***Identify the*** location or locations of the principal office or place of business and the locations in this state at which applicant proposes to engage in this business***; and*** ~~[. Application shall]~~

(c) Be accompanied by a bond as set forth in ***Section 9 of this Act*** ~~[KRS 251.451]~~. The bond shall run to the ***Commonwealth*** ~~[State]~~ of Kentucky and be for the benefit of all persons storing grain in the ***licensee's*** warehouse ***or selling grain to the licensee***. ~~[It shall be conditioned upon the warehouseman carrying combustion, fire, lightning, and tornado insurance sufficient to cover loss upon all stored grain in the warehouse, and the delivery of all stored grain or payment of the value of the grain upon the surrender of the warehouse receipt or scale ticket, and upon the faithful performance by the warehouseman of all provisions of law relating to the storage and handling of grain by the warehouseman and the administrative regulations promulgated by the Kentucky Department of Agriculture relative to the storage and handling of grain.]~~

(2) The department may ***deny*** ~~[refuse to issue]~~ a license to any applicant or revoke the existing license ***if the applicant or licensee:*** ~~[of one who]~~

(a) Furnishes false or misleading information or conceals a material fact on the application or other supporting documents***;*** ~~[,]~~

(b) Has been convicted of fraud or deceptive practice***;*** ~~[,]~~

(c) Is currently adjudicated incompetent by a court of competent jurisdiction***;*** ~~[,]~~

(d) Fails to maintain an asset to liability ratio of ***not less than*** one to one (1:1) or fails to post additional surety to cover the deficiency***;*** ~~[, or]~~

(e) Violates a provision of this chapter; or

(f) For other good cause shown.

(3) Any ***person*** ~~[individual]~~ denied a license ***or whose license has been revoked*** for these reasons shall***:***

(a) Be given written notice within thirty (30) working days of receipt of application ***or prior to revocation; and*** ~~[. Any applicant who is denied a license or has had his license revoked and feels aggrieved,]~~

(b) May request a hearing by writing to the ***board*** ~~[Commissioner of Agriculture]~~. Upon request, a hearing shall be conducted in accordance with KRS Chapter 13B.

(4) ~~[(3)]~~ ***The department shall not approve an*** ~~[All applications]~~ ***application*** for ***a grain warehouse operator's*** ~~[warehouseman]~~ license ***without first verifying that the applicant has*** ~~[shall be accompanied by]~~ a current ***audited*** financial statement ***and proof of insurance against risk of loss that is sufficient to cover all grain stored by the grain warehouse operator***.

(5) The department shall not approve an application for a grain dealer's license without first verifying that the applicant has a current audited financial statement. This requirement shall not apply to a grain dealer

license applicant whose total annual purchases in each of the last three (3) years did not exceed fifty thousand (50,000) bushels.

➔Section 20. KRS 251.500 is amended to read as follows:

(1) A~~[warehouse]~~ license ***issued under the authority of this chapter*** shall become invalid upon***:***

(a) The change of management***;***~~[,]~~

(b) Cessation of operations***;***~~[,]~~

(c) Change of partners in a partnership***;***~~[,]~~

(d) Change of corporate structure of a corporation***;***~~[,]~~

(e) Failure to remit license fees or fines***;***~~[,]~~ or

(f) ***A*** sale.

(2) ***A***~~[Every]~~ ***licensee***~~[licensed warehouseman]~~ shall immediately notify the department as to any change and shall deliver his license to the~~[office of the]~~ department together with a notarized statement setting forth the arrangements made with depositors for final disposition of~~[the]~~ grain in storage and for fulfilling ***any current***~~[the]~~ obligations~~[of the retiring warehouseman]~~.

(3) ***If there is to be***~~[In the case of]~~ a successor, the successor shall apply for a new license.

(4) If there is a change of management or cessation of operations, the department~~[, when deemed appropriate,]~~ may cause an audit and examination to be made. In these cases, all records required in ***this chapter***~~[KRS 251.480]~~ shall be available to the department until the department is satisfied that all obligations have been met.

➔Section 21. KRS 251.640 is amended to read as follows:

(1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the ***Commonwealth***~~[state]~~ that~~[all]~~ producers of ***fund-covered grains***~~[grain]~~ ***delivered to licensed grain dealers and licensed grain warehouse operators*** shall be assessed at a rate of .0025 times the gross value of ***the fund-covered***~~[all marketed]~~ grain.~~[and]~~ ***The board or the department shall*** provide for the collection of the assessment***, under the provisions of this section,*** for the purpose of financing~~[or contributing to the financing of]~~ the Kentucky grain insurance fund, which is hereby created. ***Assessments shall be levied only on fund-covered grains.***

(2) ***Except as provided in subsection (3) of this section, beginning on or after August 1, 2019,***~~[Upon the establishment of the Kentucky Grain Insurance Corporation, the Commissioner shall notify by certified mail,]~~ all persons in this state ***who are licensed grain dealers or licensed grain warehouse operators shall deduct***~~[engaged in the business of purchasing grain from producers, that on and after the date specified in the letter,]~~ the ***levied***~~[specified]~~ assessment~~[shall be deducted]~~ from ***each***~~[the]~~ producer's payment~~[by the purchaser, or his agent or representative, from the purchase price]~~ ***for***~~[of the]~~ ***fund-covered*** grain. The ***total***~~[deducted]~~ assessment ***collected by each licensee*** shall, on or before the fifteenth day of the month following the end of the month in which the grains are sold to the purchaser, be remitted~~[by the purchaser]~~ to the grain insurance fund. The books and records~~[of all purchasers of grain, which]~~ shall clearly indicate the producer assessment ***and***~~[,]~~ shall~~[at all times]~~ be open for inspection by the ***board or the department***~~[Commissioner of Agriculture or his duly authorized agents during regular business hours]~~. The ***board or the department***~~[Commissioner or his agents]~~ may take steps as are reasonably necessary to verify the accuracy of books and records of purchasers of grain.

(3) (a) ~~[Beginning with the first assessment levied on or after June 25, 2009, no assessments shall be collected by the department under paragraph (b) of this subsection unless]~~***Beginning on August 1, 2019, no assessment shall be collected if*** the board has certified that the fund is ***greater***~~[less]~~ than three million dollars ($3,000,000). ***If the board receives notification the fund is less than three million dollars ($3,000,000), then the board shall within sixty (60) days reinstate the assessment fee of .0025 times the gross value of the fund-covered grain purchased. Assessments shall continue until the board certifies the fund is in excess of ten million dollars ($10,000,000)***~~[For subsequent assessments, the provisions and amounts specified in paragraph (b) of this subsection apply]~~.

(b) ***No later than April 30 of each year, the board shall meet and certify the amount in the fund.*** If~~[and when]~~ ***the board certifies*** the ***fund's***~~[fund]~~ ***current balance*** is more than ten million dollars ($10,000,000), ***then*** no ***assessment***~~[fees]~~ shall be ***levied.***~~[assessed by the department unless the amount~~

~~in the fund drops below ten million dollars ($10,000,000). If the fund is more than ten million dollars ($10,000,000), no later than April 30 of each year, the board shall meet and certify the fund is in excess of ten million dollars ($10,000,000). Upon this certification, no assessment shall be assessed or collected for that licensed year.~~] If at any time after the board has certified ***that*** the ***balance in the fund is more than*** ten million dollars ($10,000,000)[~~ amount~~], the board receives notification ***that***[~~ of~~] the fund ***balance is***[~~ being~~] less than ***six***[~~eight~~] million dollars ***($6,000,000)***[~~($8,000,000)~~], ***then*** the board[~~ shall within thirty (30) days certify that the fund has less than eight million dollars ($8,000,000), and~~] ***shall reinstate*** the assessment ***within sixty (60) days***[~~ shall be reinstated~~]. Upon notification from the board, the department shall ***notify each licensee and shall begin collecting***[~~within thirty (30) days reinstate~~] the assessment ***within sixty (60) days***[~~fee of .0025 times the gross value of the grain purchased~~].

(4)[~~ Any producer upon and against whom the assessment is levied and collected under the provisions of this section, if dissatisfied with the assessment, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection or compensation provided for by the grain insurance corporation.~~

~~(5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, or 251.600 to 251.740, the grain insurance corporation may make application to the Franklin Circuit Court for an order enjoining the acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.~~

~~(6)~~] The assessments by the ***board***[~~department~~] in accordance with this section are in addition to any other fees or assessments required by law.

➔Section 22. KRS 251.650 is amended to read as follows:

(1) ***The total value of***[~~All~~] assessments[~~ by the department in accordance with KRS 251.640~~] shall be ***deposited and*** held by the ***board***[~~ corporation~~] in trust in the Kentucky grain insurance fund ***to pay valid claims under the provisions of this section and Section 16 of this Act***[~~for carrying out the purposes of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740~~]. These funds shall be invested and reinvested in United States Treasury obligations at the ***direction***[~~discretion~~] of the ***board***[~~corporation~~], and the interest from these investments shall be deposited to the credit of the fund and shall be available for the same purposes as all other money deposited in the fund. The money in the fund shall not be available for any purpose other than the payment of claims in accordance with ***Section 16 of this Act, refunds, legal fees, management fees, investment fees, and administration fees that are approved by the board. No money in this fund shall be used for any regulatory or licensing provision in this chapter***[~~ KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, and shall not be transferred to any fund other than the grain indemnity trust fund, which is hereby created. This limiting and nontransferability provision shall not be severable from the whole of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740; and if the provision is held invalid, repealed, or substantially amended, KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740 shall immediately become invalid, and to this end, the provision is declared to be nonseverable~~].

(2) Notwithstanding the provisions of subsection (1) of this section, the board may authorize the investment of funds for the Kentucky grain insurance fund through the ***Finance and Administration Cabinet's Office of Financial Management***[~~Kentucky Commission for Investments~~] in any guaranteed security or other guaranteed investment recommended by the ***office***[~~commission~~] if the board determines the recommendation would maximize the interest or income to the fund.

(3) ***By October 1 of each odd-numbered year, the board shall report to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Agriculture:***

(a) The current balance of the fund;

(b) The amount of assessments, interest earned, and any other money deposited into the fund; and

(c) The expenditures incurred due to claims, refunds, management fees, investment fees, legal fees, and administrative fees.

(4) Each report shall reflect the deposits into and the expenditures incurred for the most recent biennium~~[Notwithstanding the provisions of subsection (1) of this section, the board is authorized to pay from the interest or income produced by the investing of the Kentucky grain insurance fund:~~

~~(a) The ordinary management and investment fees assessed in accordance with statute or administrative regulation: and~~

~~(b) A per diem of fifty dollars ($50) to board members for each board meeting they attend, and reimbursement for other reasonable and necessary expenses incurred while engaged in carrying out the official duties of the board.~~

~~(4) Notwithstanding the provisions of subsection (1) of this section, the board may authorize the payment of legal fees, in actions brought against the Kentucky grain insurance fund, exclusively from the interest or income earned from the investment of the Kentucky grain insurance fund. All legal expenses incurred must be approved for payment by the board]~~.

➔Section 23. KRS 251.660 is amended to read as follows:

In the event ***the***~~[that]~~ ***amount***~~[amounts]~~ in the Kentucky grain insurance fund ***is***~~[are]~~ insufficient to pay~~[the]~~ approved claims,~~[funds to satisfy the unpaid claims shall be made available to the corporation as provided by this section. KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740]~~ ***the unpaid claims shall be deemed a necessary government expense. Upon notification from the board of the amount of unpaid claims***~~[shall constitute an irrevocable and continuing appropriation for, and direction to]~~, the secretary of the Finance and Administration Cabinet and the State Treasurer ***shall***~~[to]~~ make the necessary transfers ***from any unbudgeted balance of the general fund to pay the unpaid claims. The general fund shall be reimbursed from the assessment in accordance with Section 21 of this Act***~~[and disbursements from the revenues and funds of the state for that purpose. The state shall be reimbursed]~~, with interest at the rate paid on ninety (90) day United States Treasury bills, for any amounts ***transferred and paid to claimants under this section. The board shall reimburse the general fund prior to any money from the assessment being deposited into the Kentucky grain insurance fund***~~[paid under this section upon replenishment of the fund from assessments made in accordance with KRS 251.640]~~.

➔Section 24. KRS 251.730 is amended to read as follows:

If irregularities are suspected, the department may issue subpoenas or subpoenas duces tecum to compel the attendance of witnesses or the production of books, documents and records anywhere in the ***Commonwealth***~~[state]~~ in any hearing~~[,]~~ affecting the authority or privilege granted by a license**,** or to verify the accuracy of any books or records subject to inspection under the provisions of ***this chapter***~~[KRS 251.410, 251.430, 251.440 , 251.451, 251.490, and 251.600 to 251.740]~~.

➔Section 25. KRS 251.990 is amended to read as follows:

(1) ***Except as provided otherwise in this section,*** any person who violates ***a***~~[the]~~ ~~[provisions]~~***provision*** of ***this chapter***~~[KRS 251.430 to 251.720]~~ shall be guilty of a violation ***for the first offense and fined not more than five hundred dollars ($500)***. He ***or she*** shall be guilty of a Class A misdemeanor ***and shall be fined not more than one thousand dollars ($1,000) or imprisoned for up to six (6) months, or both,*** for each subsequent offense. Each day of operation in violation of the provisions of ***this chapter***~~[KRS 251.430 to 251.720]~~ shall constitute a separate offense.

(2) Any person who operates ***as a grain warehouse operator or a grain dealer*** without a license ~~[as required by KRS 251.430 or 251.720]~~shall be fined not more than ten thousand dollars ($10,000) for each violation, not to exceed a total of five hundred thousand dollars ($500,000), or imprisoned for at least one (1) but not more than five (5) years, or both.

(3) Any person who intentionally refuses or fails to pay moneys collected for assessment of grain under the Kentucky grain insurance fund~~[Program]~~ as set forth in KRS 251.640 shall be subject to a fine of not more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.

(4) Any person who fails ***to comply with the requirement in Section 11 of this Act***~~[or refuses]~~ to maintain at all times grain in storage, rights in grain, proceeds from the sale of grain, or a combination of the grain, rights, and proceeds equal to eighty percent (80%) of the value of a licensed grain storage establishment's unpaid obligations to producers for grain delivered under a forward pricing~~[(delayed pricing)]~~ contract~~[as required by KRS 251.485 or 251.675]~~ shall be fined not more than ten thousand dollars ($10,000) for each violation, not to exceed a total of five hundred thousand dollars ($500,000), or imprisoned for at least one (1) year but not more than five (5) years, or both.

(5) Any person who knowingly makes any false statement, representation, or certification, or who knowingly fails to make any statement, representation, or certification in any record, report, or other document~~[filed or required to be maintained by the Commissioner in violation of KRS 251.485(2)]~~ shall ~~[upon conviction]~~be fined not more than one thousand dollars ($1,000) for each violation, not to exceed a total of five hundred thousand dollars ($500,000), or imprisoned for at least one (1) year but not more than five (5) years, or both.

(6) Any person who transfers or disburses grain, property, or assets~~[from the licensed grain establishment's handler account]~~ in violation of ***a provision of this chapter***~~[KRS 251.485(2)]~~ shall ~~[upon conviction]~~be fined not more than ten thousand dollars ($10,000) for each violation, not to exceed a total of five hundred thousand dollars ($500,000), or be imprisoned for at least one (1) year but not more than five (5) years, or both.

(7) Except as permitted by law, any person who willfully and knowingly resists, prevents, impedes, or interferes with ***a representative of the board or***~~[the Commissioner or other agents or employees of]~~ the department in performance of the duties assigned by ***a provision of this chapter***~~[KRS 251.485 or 251.675]~~, shall upon conviction be fined not more than five thousand dollars ($5,000) for each violation, or imprisoned for not more than one (1) year, or both.

(8) If a ***business entity***~~[corporate grain establishment license holder]~~ violates any provision of ***this chapter***~~[KRS 251.485 or 251.675 or any administrative regulations that pertain to KRS 251.485 or 251.675]~~, or if it fails or refuses to comply with any lawful order issued by ***a representative of the board or the department***~~[the Commissioner]~~, ***then*** any director, officer, or agent of the ***business entity***~~[corporation]~~ who willfully and knowingly authorized, ordered, or carried out the violation, failed, or refused to comply with ***the***~~[any]~~ lawful order ~~[issued by the Commissioner]~~ shall be subject to the same penalties, fines, and imprisonment as may be imposed upon a person in accordance with this section.

(9) Any person who fails to renew a license within the time frame required by ***Section 7 of this Act***~~[KRS 251.430 or 251.720]~~ shall be fined one hundred fifty dollars ($150).

(10) All fines or penalties collected from violators of the provisions of this chapter shall be used to carry out the provisions of this chapter.

➔Section 26. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

(1) (a) Recording and indexing of a:

1. Deed of trust or assignment for the benefit of creditors;
2. Deed;
3. Real estate mortgage;
4. Deed of assignment;
5. Real estate option;
6. Power of attorney;
7. Revocation of power of attorney;
8. Lease which is recordable by law;
9. Deed of release of a mortgage or lien under KRS 382.360;
10. United States lien;
11. Release of a United States lien;
12. Release of any recorded encumbrance other than state liens;
13. Lis pendens notice concerning proceedings in bankruptcy;
14. Lis pendens notice;
15. Mechanic's and artisan's lien under KRS Chapter 376;
16. Assumed name;
17. Notice of lien issued by the Internal Revenue Service;
18. Notice of lien discharge issued by the Internal Revenue Service;

19. Original, assignment, amendment, or continuation financing statement;

20. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;

21. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;

22. Recording with statutory authority for which no specific fee is set, except a military discharge; and

23. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed three (3) pages $12.00

And, for all items in this subsection exceeding three (3) pages, for each additional page $3.00

And, for all items in this subsection for each additional reference relating to same instrument $4.00

(b) The twelve dollar ($12) fee imposed by paragraph (a) of this subsection shall be divided as follows:

1. Six dollars ($6) shall be retained by the county clerk; and

2. Six dollars ($6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.

(2) Recording and indexing a file-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State:

(a) The entire record thereof does not exceed three (3) pages $10.00

(b) And, exceeding three (3) pages, for each additional page $3.00

(3) Recording wills or other probate documents pursuant to KRS Chapter 392 or 394 .....$ 8.00

(4) Recording court ordered name changes pursuant to KRS Chapter 401 .....$ 8.00

(5) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A $12.00

(6) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A $5.00

(7) Filing or recording state tax or other state liens $5.00

(8) Filing release of a state tax or other state lien $5.00

(9) Marginal release, noting release of any lien, mortgage, or redemption other than a deed of release $8.00

(10) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same $4.00

(11) Recording a land use restriction according to KRS 100.3681 .....$15.00

(12) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page $20.00

(13) Recording a bond, for each bond $10.00
(14) Each bond required to be taken or prepared by the clerk $4.00
(15) Copy of any bond when ordered $3.00
(16) Administering an oath and certificate thereof $5.00
(17) Issuing a license for which no other fee is fixed by law $8.00
(18) Issuing a solicitor's license $15.00
(19) Marriage license, indexing, recording, and issuing certificate thereof $24.00
(20) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not $3.00
(21) Registration of licenses for professional persons required to register with the county clerk $10.00
(22) Certified copy of any record $5.00
Plus fifty cents ($.50) per page after three (3) pages
(23) Filing certification required by KRS 65.070(2)(a) $5.00
(24) Filing notification and declaration and petition of candidates for Commonwealth's attorney $200.00
(25) Filing notification and declaration and petition of candidates for county and independent boards of education $20.00
(26) Filing notification and declaration and petition of candidates for boards of soil and water conservation districts $20.00
(27) Filing notification and declaration and petition of candidates for other office $50.00
(28) Filing declaration of intent to be a write-in candidate for office $50.00
(29) Filing petitions for elections, other than nominating petitions $50.00
(30) Notarizing any signature, per signature $2.00
(31) Filing bond for receiving bodies under KRS 311.310 ..... $10.00
(32) Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127 ..... $27.00
(33) Filing a going-out-of-business permit under KRS 365.445 ..... $50.00
(34) Filing a renewal of a going-out-of-business permit under KRS 365.445 ..... $50.00
~~(35)[Filing a grain warehouseman's license under KRS 359.050 ..... $10.00~~
~~(36)]~~ Filing and processing a transient merchant permit under KRS 365.680 ..... $25.00

➔Section 27. The following KRS sections are repealed:

251.015 Division of Regulation and Inspection.
251.410 Definitions for KRS 251.420 to 251.510.
251.420 Duties of board.
251.430 License required -- Exception -- Renewal -- Fee.

251.451 Surety bond, certificate of deposit, letter of credit, or temporary surety required.

251.480 Forward pricing and storage contracts -- Licensee's records -- Receipts or scale tickets -- Content -- Bookkeeping system.

251.485 Forward pricing (delayed pricing) contracts.

251.490 Semiannual inspection -- Special provisions for licensees short of facilities.

251.510 Board hearings.

251.520 Departments to enter into agreements with other governments to satisfy inspection requirements.

251.600 Purpose.

251.610 Definitions.

251.620 Kentucky Grain Insurance Corporation -- Board of directors -- Powers.

251.630 Applicability.

251.642 Procedure for reentry of producer into grain insurance program after withdrawal of assessments.

251.670 Payment of compensation.

251.675 Conditions requiring denial of compensation from Kentucky Grain Insurance Fund.

251.680 Duty of board when dealer or warehouseman defaults or fails.

251.690 Other duties of board.

251.700 Rules and regulations.

251.710 Grounds for suspension or revocation of license or cooperative agreement.

251.720 License to engage in business of buying grain from producers for resale, milling, or processing -- Grounds for refusal to issue or to revoke license -- Notice and hearing -- Surety bond required -- Invalid license -- Requirements for bulk purchasers of grain.

359.010 Definitions.

359.020 Warehouse receipt or voucher, when may be issued as security.

359.030 Warehouseman to keep register.

359.040 Civil action for violation of KRS 359.020 or 359.030.

359.050 Grain warehouseman's license.

359.060 Bond of grain warehouseman.

359.070 Inspector, weigher and registrar for grain warehouses in city having board of trade -- Inspection standards and fees.

359.090 Breach of duty by inspector, weigher or registrar -- Improper influence.

359.100 Receipt of grain for storage.

359.110 Effect of delay in delivering grain.

359.120 Handling and moving of grain in storage.

359.130 Grain in warehouse, records and reports of.

359.140 Storage rates and charges to be posted -- Changes in rates and charges.

359.150 Grain warehousemen to post copies of grain warehouse law.

359.160 Oil warehouses.

359.170 Guaranteeing of receipts, how regulated.

359.990 Penalties.

➔Section 28. This Act takes effect August 1, 2019.

Signed by Governor March 25, 2019.

CHAPTER 89

(SB 161)

AN ACT relating to law enforcement programs for substance use treatment.

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

➔Section 1. KRS 15.525 is amended to read as follows:

(1) A law enforcement agency may create a program to refer persons to treatment for substance use who voluntarily seek assistance from the law enforcement agency.

(2) A person voluntarily seeking assistance through a program created pursuant to this section:

(a) Shall not be placed under arrest;

(b) Shall not be prosecuted for the possession of any controlled substance ***or drug***~~[,]~~ paraphernalia~~[, or other item]~~ surrendered to the law enforcement agency. Items surrendered pursuant to this paragraph shall be recorded by the law enforcement agency at the time of surrender and shall be destroyed; ***and***

(c) ~~[Shall be paired immediately with a volunteer mentor to assist his or her recovery; and~~

~~(d)]~~Shall be ***promptly***~~[immediately]~~ referred to a community mental health center, medical provider, or other entity for substance use treatment.

(3) A person is ineligible for placement through a program established pursuant to this section if the person:

(a) Has an outstanding arrest warrant ***issued by a Kentucky court or an extraditable arrest warrant issued by a court of another state***;

(b) ***Places law enforcement or its representatives in reasonable apprehension of physical injury***~~[Has been convicted of three (3) or more drug related offenses]~~; or

(c) Is under the age of eighteen (18) and does not have the consent of a parent or guardian.

(4) ***Information gathered by a program created pursuant to this section related to a person who has voluntarily sought assistance under this section is exempt from disclosure under the Kentucky Open Records Act pursuant to KRS 61.878(1)(a).***

(5) Except for intentional misconduct, any law enforcement agency or person that provides referrals or services in accordance with subsection (2) of this section shall be immune from criminal and civil liability~~[Programs created pursuant to this section may be called an Angel Initiative Program]~~.

Signed by Governor March 25, 2019.

CHAPTER 90

(SB 167)

AN ACT relating to reorganization.

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

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

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they

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

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

(1) The Governor.

(2) Lieutenant Governor.

(3) Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

(4) Department of Law.

(a) Attorney General.

(5) Department of the Treasury.

(a) Treasurer.

(6) Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

(7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

(1) Justice and Public Safety Cabinet:

(a) Department of Kentucky State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Office of Drug Control Policy.

(g) Office of Legal Services.

(h) Office of the Kentucky State Medical Examiner.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Office of Legislative and Intergovernmental Services.

(l) Office of Management and Administrative Services.

(m) Department of Public Advocacy.

(2) Education and Workforce Development Cabinet:

(a) Office of the Secretary.

1. Governor's Scholars Program.

2. Governor's School for Entrepreneurs Program.

(b) Office of Legal and Legislative Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of Budget and Administration.

1. Division of Human Resources.

2. Division of Administrative Services.

(e) Office of Technology Services.

(f) Office of Educational Programs.

(g) Office for Education and Workforce Statistics.

(h) Board of the Kentucky Center for Education and Workforce Statistics.

(i) Board of Directors for the Center for School Safety.

(j) Department of Education.

1. Kentucky Board of Education.

2. Kentucky Technical Education Personnel Board.

(k) Department for Libraries and Archives.

(l) Department of Workforce Investment.

1. Office for the Blind.

2. Office of Vocational Rehabilitation.

3. Office of Employment and Training.

a. Division of Grant Management and Support.

b. Division of Workforce and Employment Services.

c. Division of Unemployment Insurance.

(m) Foundation for Workforce Development.

(n) Kentucky Office for the Blind State Rehabilitation Council.

(o) Kentucky Workforce Investment Board.

(p) Statewide Council for Vocational Rehabilitation.

(q) Unemployment Insurance Commission.

(r) Education Professional Standards Board.

1. Division of Educator Preparation.

2. Division of Certification.

3. Division of Professional Learning and Assessment.

4. Division of Legal Services.

(s) Kentucky Commission on the Deaf and Hard of Hearing.

(t) Kentucky Educational Television.

(u) Kentucky Environmental Education Council.

(3) Energy and Environment Cabinet:

(a) Office of the Secretary.

1. Office of Legislative and Intergovernmental Affairs.

2. Office of Legal Services.

a. Legal Division I.

b. Legal Division II.

3. Office of Administrative Hearings.

4. Office of Communication.

5. Mine Safety Review Commission.

6. Office of Kentucky Nature Preserves.

7. Kentucky Public Service Commission.

(b) Department for Environmental Protection.

1. Office of the Commissioner.

2. Division for Air Quality.

3. Division of Water.

4. Division of Environmental Program Support.

5. Division of Waste Management.

6. Division of Enforcement.

7. Division of Compliance Assistance.

(c) Department for Natural Resources.

1. Office of the Commissioner.

2. Division of Mine Permits.

3. Division of Mine Reclamation and Enforcement.

4. Division of Abandoned Mine Lands.

5. Division of Oil and Gas.

6. Division of Mine Safety.

7. Division of Forestry.

8. Division of Conservation.

9. Office of the Reclamation Guaranty Fund.

(d) Office of Energy Policy.

1. Division of Energy Assistance.

(e) Office of Administrative Services.

1. Division of Human Resources Management.

2. Division of Financial Management.

3. Division of Information Services.

(4) Public Protection Cabinet.

(a) Office of the Secretary.

1. Office of Communications and Public Outreach.

2. Office of Legal Services.

a. Insurance Legal Division.

b. Charitable Gaming Legal Division.

c. Alcoholic Beverage Control Legal Division.

d. Housing, Buildings and Construction Legal Division.

e. Financial Institutions Legal Division.

f. Professional Licensing Legal Division.

3. Office of Administrative Hearings.

4. Office of Administrative Services.

a. Division of Human Resources.

b. Division of Fiscal Responsibility.

(b) Kentucky Claims Commission.

(c) Kentucky Boxing and Wrestling Commission.

(d) Kentucky Horse Racing Commission.

1. Office of Executive Director.

a. Division of Pari-mutuel Wagering and Compliance.

b. Division of Stewards.

c. Division of Licensing.

d. Division of Enforcement.

e. Division of Incentives and Development.

f. Division of Veterinary Services.

(e) Department of Alcoholic Beverage Control.

1. Division of Distilled Spirits.

2. Division of Malt Beverages.

3. Division of Enforcement.

(f) Department of Charitable Gaming.

1. Division of Licensing and Compliance.

2. Division of Enforcement.

(g) Department of Financial Institutions.

1. Division of Depository Institutions.

2. Division of Non-Depository Institutions.

3. Division of Securities.

(h) Department of Housing, Buildings and Construction.

1. Division of Fire Prevention.

2. Division of Plumbing.

3. Division of Heating, Ventilation, and Air Conditioning.

4. Division of Building Code Enforcement.

(i) Department of Insurance.

1. Division of Insurance Product Regulation.

2. Division of Administrative Services.

3. Division of Financial Standards and Examination.

4. Division of Agent Licensing.

5. Division of Insurance Fraud Investigation.

6. Division of Consumer Protection.

~~[7. Division of Kentucky Access.]~~

(j) Department of Professional Licensing.

1. Real Estate Authority.

(5) Labor Cabinet.

(a) Office of the Secretary.

1. Office of General Counsel.

a. Workplace Standards Legal Division.

b. Workers' Claims Legal Division.

2. Office of Administrative Services.

a. Division of Human Resources Management.

b. Division of Fiscal Management.

c. Division of Professional Development and Organizational Management.

d. Division of Information Technology and Support Services.

3. Office of Inspector General.

(b) Department of Workplace Standards.

1. Division of Apprenticeship.

2. Division of Occupational Safety and Health Compliance.

3. Division of Occupational Safety and Health Education and Training.

4. Division of Wages and Hours.

(c) Department of Workers' Claims.

1. Division of Workers' Compensation Funds.

2. Office of Administrative Law Judges.

3. Division of Claims Processing.

4. Division of Security and Compliance.

5. Division of Information Services.

6. Division of Specialist and Medical Services.

7. Workers' Compensation Board.

(d) Workers' Compensation Funding Commission.

(e) Occupational Safety and Health Standards Board.

(f) Apprenticeship and Training Council.

(g) State Labor Relations Board.

(h) Employers' Mutual Insurance Authority.

(i) Kentucky Occupational Safety and Health Review Commission.

(j) Workers' Compensation Nominating Committee.

(6) Transportation Cabinet:

(a) Department of Highways.

1. Office of Project Development.

2. Office of Project Delivery and Preservation.

3. Office of Highway Safety.

4. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Aviation.

(d) Department of Rural and Municipal Aid.

1. Office of Local Programs.

2. Office of Rural and Secondary Roads.

(e) Office of the Secretary.

1. Office of Public Affairs.

2. Office for Civil Rights and Small Business Development.

3. Office of Budget and Fiscal Management.

4. Office of Inspector General.

(f) Office of Support Services.

(g) Office of Transportation Delivery.

(h) Office of Audits.

(i) Office of Human Resource Management.

(j) Office of Information Technology.

(k) Office of Legal Services.

(7) Cabinet for Economic Development:

(a) Office of the Secretary.

1. Office of Legal Services.

2. Department for Business Development.

3. Department for Financial Services.

a. Kentucky Economic Development Finance Authority.

b. Finance and Personnel Division.

c. IT and Resource Management Division.

d. Compliance Division.

e. Incentive Administration Division.

f. Bluegrass State Skills Corporation.

4. Office of Marketing and Public Affairs.

a. Communications Division.

b. Graphics Design Division.

5. Office of Workforce, Community Development, and Research.

6. Office of Entrepreneurship.

a. Commission on Small Business Advocacy.

(8) Cabinet for Health and Family Services:

(a) Office of the Secretary.

1. Office of Health Data and Analytics.

2. Office of the Ombudsman and Administrative Review.

3. Office of Public Affairs.

~~[(b) Office of Health Policy.]~~

4.~~[(c)]~~ Office of Legal Services.

5.~~[(d)]~~ Office of Inspector General.

~~[(e) Office of Communications and Administrative Review.~~

~~(f) Office of the Ombudsman.]~~

(b)~~[(g)]~~ Office of Finance and Budget.

(c)~~[(h)]~~ Office of Human Resource Management.

(d) Office of Administrative Services.

(e) Office of Application Technology Services.

~~[(i) Office of Administrative and Technology Services.]~~

(f)~~[(j)]~~ Department for Public Health.

(g)~~[(k)]~~ Department for Medicaid Services.

(h)~~[(l)]~~ Department for Behavioral Health, Developmental and Intellectual Disabilities.

(i)~~[(m)]~~ Department for Aging and Independent Living.

(j)~~[(n)]~~ Department for Community Based Services.

(k)~~[(o)]~~ Department for Income Support.

(l)~~[(p)]~~ Department for Family Resource Centers and Volunteer Services.

(m)~~[(q)]~~ Office for Children with Special Health Care Needs.

(n)~~[(r) Governor's Office of Electronic Health Information.~~

~~(s)]~~ Office of Legislative and Regulatory Affairs.

(9) Finance and Administration Cabinet:

(a) Office of the Secretary.

(b) Office of the Inspector General.

(c) Office of Legislative and Intergovernmental Affairs.

(d) Office of General Counsel.

(e) Office of the Controller.

(f) Office of Administrative Services.

(g) Office of Policy and Audit.

(h) Department for Facilities and Support Services.

(i) Department of Revenue.

(j) Commonwealth Office of Technology.

(k) State Property and Buildings Commission.

(l) Office of Equal Employment Opportunity and Contract Compliance.

(m) Kentucky Employees Retirement Systems.

(n) Commonwealth Credit Union.

(o) State Investment Commission.

(p) Kentucky Housing Corporation.

(q) Kentucky Local Correctional Facilities Construction Authority.

(r) Kentucky Turnpike Authority.

(s) Historic Properties Advisory Commission.

(t) Kentucky Tobacco Settlement Trust Corporation.

(u) Kentucky Higher Education Assistance Authority.

(v) Kentucky River Authority.

(w) Kentucky Teachers' Retirement System Board of Trustees.

(x) Executive Branch Ethics Commission.

(10) Tourism, Arts and Heritage Cabinet:

(a) Kentucky Department of Tourism.

1. Division of Tourism Services.
2. Division of Marketing and Administration.
3. Division of Communications and Promotions.

(b) Kentucky Department of Parks.

1. Division of Information Technology.
2. Division of Human Resources.
3. Division of Financial Operations.
4. Division of Facilities Management.
5. Division of Facilities Maintenance.
6. Division of Customer Services.
7. Division of Recreation.
8. Division of Golf Courses.
9. Division of Food Services.
10. Division of Rangers.
11. Division of Resort Parks.
12. Division of Recreational Parks and Historic Sites.

(c) Department of Fish and Wildlife Resources.

1. Division of Law Enforcement.
2. Division of Administrative Services.
3. Division of Engineering, Infrastructure, and Technology.
4. Division of Fisheries.
5. Division of Information and Education.
6. Division of Wildlife.
7. Division of Marketing.

(d) Kentucky Horse Park.

1. Division of Support Services.
2. Division of Buildings and Grounds.
3. Division of Operational Services.

(e) Kentucky State Fair Board.

1. Office of Administrative and Information Technology Services.
2. Office of Human Resources and Access Control.
3. Division of Expositions.

4. Division of Kentucky Exposition Center Operations.
5. Division of Kentucky International Convention Center.
6. Division of Public Relations and Media.
7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.

(f) Office of the Secretary.
1. Office of Finance.
2. Office of Government Relations and Administration.
3. Office of Film and Tourism Development.

(g) Office of Legal Affairs.

(h) Office of Human Resources.

(i) Office of Public Affairs and Constituent Services.

(j) Office of Arts and Cultural Heritage.

(k) Kentucky African-American Heritage Commission.

(l) Kentucky Foundation for the Arts.

(m) Kentucky Humanities Council.

(n) Kentucky Heritage Council.

(o) Kentucky Arts Council.

(p) Kentucky Historical Society.
1. Division of Museums.
2. Division of Oral History and Educational Outreach.
3. Division of Research and Publications.
4. Division of Administration.

(q) Kentucky Center for the Arts.
1. Division of Governor's School for the Arts.

(r) Kentucky Artisans Center at Berea.

(s) Northern Kentucky Convention Center.

(t) Eastern Kentucky Exposition Center.

(11) Personnel Cabinet:

(a) Office of the Secretary.

(b) Department of Human Resources Administration.

(c) Office of Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Office of Administrative Services.

(f) Office of Legal Services.

(g) Governmental Services Center.

(h) Department of Employee Insurance.

(i) Office of Diversity, Equality, and Training.

(j) Office of Public Affairs.

III. Other departments headed by appointed officers:

(1) Council on Postsecondary Education.

(2) Department of Military Affairs.

(3) Department for Local Government.

(4) Kentucky Commission on Human Rights.

(5) Kentucky Commission on Women.

(6) Department of Veterans' Affairs.

(7) Kentucky Commission on Military Affairs.

(8) Office of Minority Empowerment.

(9) Governor's Council on Wellness and Physical Activity.

(10) Kentucky Communications Network Authority.

➔Section 2. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

2. Department of Revenue

a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440

b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205

(b) Cabinet for Health and Family Services

1. Office of ***the Inspector General*** ~~[Health Policy]~~

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

2. Department for Community Based Services

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630

3. Department for Income Support

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

4. Department for Medicaid Services

a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646

(c) Justice and Public Safety Cabinet

1. Department of Kentucky State Police

a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

a. Supervised placement revocation hearings conducted under KRS Chapter 635

(d) Energy and Environment Cabinet

1. Department for Natural Resources

a. Surface mining hearings conducted under authority of KRS Chapter 350

b. Oil and gas hearings conducted under the authority of KRS Chapter 353, except for those conducted by the Kentucky Oil and Gas Conservation Commission pursuant to KRS 353.500 to 353.720

c. Explosives and blasting hearings conducted under the authority of KRS 351.315 to 351.375

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224

3. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(e) Labor Cabinet

1. Department of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

2. Kentucky Occupational Safety and Health Review Commission

a. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(f) Public Protection Cabinet

1. Kentucky Claims Commission

a. Liability hearings conducted under authority of KRS 49.020(1) and 49.040 to 49.180

(g) Education and Workforce Development Cabinet

1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(h) Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(i) State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

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

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

(7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings held under KRS 11A.100 or 18A.095.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Division of Health Benefit Exchange shall administer the provisions of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148.

(2) The Division of Health Benefit Exchange shall:

(a) Facilitate enrollment in health coverage and the purchase and sale of qualified health plans in the individual market;

(b) Facilitate the ability of eligible individuals to receive premium tax credits and cost-sharing reductions and enable eligible small businesses to receive tax credits, in compliance with all applicable federal and state laws and regulations;

(c) Oversee the consumer assistance programs of navigators, in-person assisters, certified application counselors, and insurance agents as appropriate;

(d) At a minimum, carry out the functions and responsibilities required pursuant to 42 U.S.C. sec. 18031 to implement and comply with federal regulations in accordance with 42 U.S.C. sec. 18041; and

(e) Regularly consult with stakeholders in accordance with 45 C.F.R. sec. 155.130.

(3) The office may enter into contracts and other agreements with appropriate entities, including but not limited to federal, state, and local agencies, as permitted under 45 C.F.R. sec. 155.110, to the extent necessary to carry out the duties and responsibilities of the office, provided that the agreements incorporate adequate protections with respect to the confidentiality of any information to be shared.

(4) The office shall pursue all available federal funding for the further development and operation of the Division of Health Benefit Exchange.

(5) The Office of Health Data and Analytics shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

(6) The office shall not establish procedures and rules that conflict with or prevent the application of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Division of Analytics is hereby created in the Office of Health Data and Analytics. The division shall provide oversight and strategic direction and be responsible for coordinating the data analysis initiatives for the various departments that regulate health care and social services to ensure that policy is consistent with the long-term goals across the Commonwealth.

(2) The division shall have the authority to review all data requests received by the cabinet from the public, review the requests for content to determine the cabinet's response, and approve the release of the requested information. The division shall review data analyses conducted by the departments within the cabinet to ensure the consistency, quality, and validity of the analysis prior to its use in operational and policy

decisions. The division shall facilitate the process of data integration by initiating and maintaining data-sharing agreements in order to improve inter-agency and cross-cabinet collaboration.

(3) The Office of Health Data and Analytics shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Division of Health Information is hereby created in the Office of Health Data and Analytics. The division shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services.

(2) The Office of Health Data and Analytics shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section.

➔Section 6. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of ***the Ombudsman***~~[Communications]~~ and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of ***Public Affairs***~~[the Ombudsman]~~, and ***an Office of Health Data and Analytics, as follows:***~~[the Governor's Office of Electronic Health Information.]~~

(a) The Office of ***the Ombudsman***~~[Communications]~~ and Administrative Review shall ***be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall:***

1. Investigate, upon complaint or on its own initiative, any administrative act of an organizational unit, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Organizational units, employees, or contractors of the cabinet shall not willfully obstruct an investigation, restrict access to records or personnel, or retaliate against a complainant or cabinet employee;

2. Make recommendations that resolve citizen complaints and improve governmental performance and may require corrective action when policy violations are identified;

3. Provide evaluation and information analysis of cabinet performance and compliance with state and federal law;

4. Place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance;

5. Provide information on how to contact the office for public posting at all offices where Department for Community Based Services employees or contractors work, at any facility where a child in the custody of the cabinet resides, and to all cabinet or contracted foster parents;

6. Report to the Office of Inspector General any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties; or any violation of state law or administrative regulation by any organization or individual regulated by, or contracted with the cabinet;

7. Compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and submit the report upon request to the Child Welfare Oversight and Advisory Committee established in KRS 6.943 and the Interim Joint Committee on Health and Welfare and Family Services; and

8. Include oversight of administrative hearings***;***~~[and communications with internal and external audiences of the cabinet. The Office of Communications and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.]~~

(b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the

cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105***;*** ~~[.]~~

(c) ***The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.*** The Office of Inspector General shall be responsible for:

1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;

2. Licensing and regulatory functions as the secretary may delegate;

3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963; ~~[and]~~

4. ***The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeals functions, pursuant to KRS Chapter 216B; and***

5. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority***; and*** ~~[.]~~

(d) The Office of Health Data and Analytics shall be headed by an executive director appointed by the secretary with the approval of the Governor. The Office of Health Data and Analytics shall:

1. Be responsible for:

a. The Division of Health Benefit Exchange;

b. The Division of Health Information; and

c. The Division of Analytics;

2. Identify and innovate strategic initiatives to inform public policy initiatives and provide opportunities for improving the health outcomes of all Kentuckians through data analytics;

3. Provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services; and

4. Facilitate the purchase of individual and small business health insurance coverage for Kentuckians

~~[The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.~~

~~(d) The Governor's Office of Electronic Health Information shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services. The Governor's Office of Electronic Health Information shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050]~~;

(2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance abuse disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;

(5) Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the office. The office shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The office may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Office for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;

(6) ~~[Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, behavioral health, developmental and intellectual disabilities, mental health services, services for individuals with an intellectual disability, public health, certificate of need, and health insurance. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;~~

~~(7)]~~Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and Serve Kentucky. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;

(7) The Office of Administrative Services shall provide central review and oversight of procurement, general accounting to include grant monitoring, and facility management for cabinet. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(8) The Office of Application Technology Services shall provide application technology services including central review and oversight. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050

~~[(8) Office of Administrative and Technology Services. The Office of Administrative and Technology Services shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The office shall have responsibility for properties and facilities owned, maintained, or managed by the cabinet. The Office of Administrative and Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall exercise authority over the Office of Administrative and Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary];~~

(9) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(10) The Office of Finance and Budget shall provide central review and oversight of budget, contracts, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(11) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(12) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(13) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, the Institute on Aging, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Consumer Directed Option (CDO) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; ***and***

(14) The Office of Legislative and Regulatory Affairs shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050~~[; and~~

~~(15) The Office of the Ombudsman shall investigate, upon complaint or on its own initiative, any administrative act of an agency, employee, or contractor of the cabinet, without regard to the finality of the administrative act.~~

~~Agencies, employees, or contractors shall not restrict access to records or personnel. The Office of the Ombudsman shall make recommendations that resolve citizen complaints and improve governmental performance, and may request corrective action when policy violations are noted. The Office of the Ombudsman shall provide evaluation and information analysis of cabinet performance and compliance with state and federal policy. The Office of the Ombudsman shall place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance. The Office of the Ombudsman shall ensure that information relating to how to contact the office shall be publicly posted at all facilities where agency employees or contractors work, publicly posted at any facility where a child in the custody of the cabinet resides or is treated, and given to all cabinet or contracted foster parents. The Office of the Ombudsman shall report to the Office of Inspector General any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties. The Office of the Ombudsman shall compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and shall submit the report by December 1 of each year to the Child Welfare Oversight and Advisory Committee established in KRS 6.943 and the Interim Joint Committee on Health and Welfare and Family Services. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050~~].

➔Section 7. KRS 211.751 is amended to read as follows:

The Department for Medicaid Services, the Department for Public Health, the Office of Health ***Data and Analytics***~~[Policy]~~, and the Personnel Cabinet shall collaborate to identify goals and benchmarks while also developing individual entity plans to reduce the incidence of diabetes in Kentucky, improve diabetes care, and control complications associated with diabetes.

➔Section 8. KRS 211.752 is amended to read as follows:

The Department for Medicaid Services, the Department for Public Health, the Office of Health ***Data and Analytics***~~[Policy]~~, and the Personnel Cabinet shall submit a report to the Legislative Research Commission by January 10 of each odd-numbered year on the following:

(1) The financial impact and reach diabetes of all types is having on the entity, the Commonwealth, and localities. Items included in this assessment shall include the number of lives with diabetes impacted or covered by the entity, the number of lives with diabetes and family members impacted by prevention and diabetes control programs implemented by the entity, the financial toll or impact diabetes and its complications places on the program, and the financial toll or impact diabetes and its complications places on the program in comparison to other chronic diseases and conditions;

(2) An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease. This assessment shall also document the amount and source for any funding directed to the agency or entity from the Kentucky General Assembly for programs and activities aimed at reaching those with diabetes;

(3) A description of the level of coordination existing between the entities on activities, programmatic activities, and messaging on managing, treating, or preventing all forms of diabetes and its complications;

(4) The development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the General Assembly. The plans shall identify proposed action steps to reduce the impact of diabetes, prediabetes, and related diabetes complications. The plan shall also identify expected outcomes of the action steps proposed in the following biennium while also establishing benchmarks for controlling and preventing relevant forms of diabetes; and

(5) The development of a detailed budget blueprint identifying needs, costs, and resources required to implement the plan identified in subsection (4) of this section. This blueprint shall include a budget range for all options presented in the plan identified in subsection (4) of this section for consideration by the General Assembly.

➔Section 9. KRS 217C.070 is amended to read as follows:

(1) The secretary for health and family services shall appoint a~~[grade A]~~ milk advisory committee composed of eight (8) appointive members. Three (3) members shall be processors, or representatives thereof; three (3) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.

(2) ~~[The secretary for health and family services shall appoint a milk for manufacturing advisory committee composed of eight (8) appointive members. Four (4) members shall be processors, or representatives thereof;~~

~~two (2) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.~~

~~(3) ~~]The secretary for health and family services or his designated representative shall be an ex officio member and secretary of ***the***~~[each]~~ committee. The appointments to ***the***~~[each]~~ committee shall be made for a term of four (4) years, or until their successors are appointed and qualify, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years and two (2) members shall be appointed for four (4) years and the respective terms of the first members shall be designated by the secretary for health and family services at the time of their appointment. Such members shall serve without compensation but may be reimbursed for necessary traveling expenses. Procedures for selection of advisory nominees shall be in accordance with the regulations of the secretary.

➔Section 10. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of ***ten (10)***~~[nine (9)]~~ members: the commissioner plus ***nine (9)***~~[eight (8)]~~ persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The ***nine (9)***~~[eight (8)]~~ persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers;

(c) Two (2) representatives of purchasers of health benefit plans;~~[and]~~

(d) Two (2) representatives of agents***; and***

(e) One (1) representative from the Division of Health Benefit Exchange.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in KRS 304.17B-033;

(e) ~~[Advise the Department of Insurance concerning the Department of Insurance's separation plan for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access;~~

~~(f) ~~]Review and discuss issues that impact Kentucky Access; and

(f)~~[(g)]~~ Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

➔Section 11. KRS 304.17B-001 is amended to read as follows:

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

(1) "Administrator" is defined in KRS 304.9-051(1);

(2) "Agent" is defined in KRS 304.9-020;

(3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in KRS 304.17B-021;

(4) "Authority" means the Kentucky Health Care Improvement Authority;

(5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;

(6) "Commissioner" is defined in KRS 304.1-050(1);

(7) "Department" is defined in KRS 304.1-050(2);

(8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;

(9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;

(10) "Eligible individual" is defined in KRS 304.17A-005(11);

(11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through December 31, 2000, in the individual market to guaranteed acceptance program qualified individuals;

(13) "Health benefit plan" is defined in KRS 304.17A-005(22);

(14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;

(15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;

(16) "Insurer" is defined in KRS 304.17A-005(27);

(17) "Kentucky Access" means the program established in accordance with KRS 304.17B-001 to 304.17B-031;

(18) "Kentucky Access Fund" means the fund established in KRS 304.17B-021;

(19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in KRS 304.17B-003(5);

(20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in KRS 304.17B-003(5);

(21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;

(22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;

(23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;

(24) ***"Office" means the Office of Health Data and Analytics in the Cabinet for Health and Family Services;***

(25) "Pre-existing condition exclusion" is defined in KRS 304.17A-220(6);

(26) ~~[(25)]~~ "Standard health benefit plan" means a health benefit plan that meets the requirements of KRS 304.17A-250;

(27) ~~[(26)]~~ "Stop-loss carrier" means any person providing stop-loss health insurance coverage;

(28) ~~[(27)]~~ "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and

(29) ~~[(28)]~~ "Utilization management" is defined in KRS 304.17A-500(12).

➔Section 12. KRS 304.17B-003 is amended to read as follows:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers,

duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of fifteen (15) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with KRS 304.17B-001 to 304.17B-031 and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

(a) The ***secretary***~~[commissioner]~~ of the ***Cabinet for Health and Family Services***~~[Department of Insurance]~~, or the ***secretary's***~~[commissioner's]~~ designated representative, who shall serve as chair;

(b) The ***commissioner of the Department of Insurance***~~[secretary of the Cabinet for Health and Family Services]~~, or the ***commissioner's***~~[secretary's]~~ designated representative, who shall serve as vice chair;

(c) Two (2) nonvoting members serving ex officio from the House of Representatives, one (1) of whom shall be appointed by the Speaker of the House and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;

(d) Two (2) nonvoting members serving ex officio from the Senate, one (1) of whom shall be appointed by the President of the Senate and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;

(e) The deans of the University of Louisville School of Medicine and the University of Kentucky College of Medicine, or their designated representatives;

(f) The commissioner of the Department for Public Health, or the commissioner's designated representative;

(g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and

(h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of whom shall be male and at least one (1) of whom shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen-at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen-at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall establish procedures for accountability, including the review of expenditures, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the ***Cabinet for Health and Family Services***~~[Department of Insurance]~~ for administrative purposes and shall establish advisory boards it deems appropriate, which shall consist of health insurance consumers, health care providers, and insurance company representatives, to assist with oversight of fund expenditures.

(5) Grants and funds obtained under KRS 304.17B-001 to 304.17B-031 shall be used for expenditures as follows:

(a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;

(b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

(c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall ***ensure***~~[assure]~~ that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds

were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under KRS 304.17B-001 to 304.17B-031. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under KRS 304.17B-001 to 304.17B-031, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 304.17B-001 to 304.17B-031, including, but not limited to, retaining the staff it deems necessary for the proper performance of its duties.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

➔Section 13. KRS 304.17B-005 is amended to read as follows:

(1) There is hereby created Kentucky Access, which shall ensure that health coverage is made available to each Kentucky individual resident applying and qualifying for coverage. Any health coverage provided under this section shall begin no sooner than January 1, 2001. Kentucky Access is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health coverage allowed by federal law.

(2) Kentucky Access shall operate under the Division of ***Health Benefit Exchange in the Office of Health Data and Analytics, Cabinet for Health and Family Services***~~[Kentucky Access in the Department of Insurance]~~. The division shall be headed by a division director appointed by the secretary of the ***Cabinet for Health and Family Services***~~[Public Protection Cabinet]~~ in accordance with KRS 12.050.

(3) Neither the ***office***~~[department]~~ nor its employees shall be liable for any obligations of Kentucky Access. No member or employee of the ***office***~~[department]~~ shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under KRS 304.17B-001 to 304.17B-031, unless such act or omission constitutes willful or wanton misconduct. The ***office***~~[department]~~ may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

➔Section 14. KRS 304.17B-007 is amended to read as follows:

In its duties to operate and administer Kentucky Access, the ***Office of Health Data and Analytics***~~[department]~~ shall, through itself or designated agents:

(1) Establish administrative and accounting procedures for the operation of Kentucky Access;

(2) Enter into contracts as necessary;

(3) Take legal action necessary:

(a) To avoid the payment of improper claims against Kentucky Access or the coverage provided by or through Kentucky Access;

(b) To recover any amounts erroneously or improperly paid by Kentucky Access;

(c) To recover any amounts paid by the Kentucky Access as a result of mistake of fact or law;

(d) To recover other amounts due Kentucky Access; or

(e) To operate and administer its obligations under the provisions of KRS 304.17B-001 to 304.17B-031;

(4) Establish, and modify as appropriate, rates, rate schedules, rate adjustments, premium rates, expense allowances, claim reserve formulas, and any other actuarial function appropriate to the administration and operation of Kentucky Access. Premium rates and rate schedules may be adjusted for appropriate factors, including, but not limited to, age and sex, and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices;

(5) Establish procedures under which applicants and participants in Kentucky Access shall have an internal grievance process and a mechanism for external review through an independent review organization in accordance with this chapter;

(6) Select a third-party administrator in accordance with KRS 304.17B-011;

(7) Require that all health benefit plans, riders, endorsements, or other forms and documents used to administer Kentucky Access meet the requirements of Subtitles 12, 14, 17, 17A, and 38 of this chapter;

(8) Adopt nationally recognized uniform claim forms in accordance with this chapter;

(9) Develop and implement a marketing strategy to publicize the existence of Kentucky Access, including, but not limited to, eligibility requirements, procedures for enrollment, premium rates, and a toll–free telephone number to call for questions;

(10) Establish and review annually provider reimbursement rates that ensure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under Kentucky Access at least to the extent that such care and services are available to the general population. The ***office*** ~~[department]~~ shall only authorize contracts with health care providers that prohibit the provider from collecting from the enrollee any amounts in excess of copayment amounts, coinsurance amounts, deductible amounts, and amounts for noncovered services;

(11) Conduct periodic audits to assure the general accuracy of the financial and claims data submitted to the ***office*** ~~[department]~~ and be subject to an annual audit of its operations;

(12) Issue health benefit plans ~~[January 1, 2001, or thereafter,]~~in accordance with the requirements of KRS 304.17B-001 to 304.17B-031;

(13) Require a referral fee of fifty dollars ($50) to be paid to agents who refer applicants who are subsequently enrolled in Kentucky Access. The referral fee shall be paid only on the initial enrollment of an applicant. Referral fees shall not be paid on any enrollments of enrollees who have been previously enrolled in Kentucky Access, or for renewals for enrollees;

(14) Bill and collect premiums from enrollees in the amount determined by the ***office*** ~~[department]~~;

(15) Assess insurers and stop-loss carriers in accordance with KRS 304.17B-021;

(16) Reimburse GAP participating insurers for GAP losses pursuant to KRS 304.17B-021;

(17) Establish a provider network for Kentucky Access by developing a statewide provider network or by contracting with an insurer for a statewide provider network. In the event the ***office*** ~~[department]~~ contracts with an insurer, the ***office*** ~~[department]~~ may take into consideration factors including, but not limited to, the size of the provider network, the composition of the provider network, and the current market rate of the provider network. The provider network shall be made available to the third-party administrator specified in KRS 304.17B-011 and shall be limited to Kentucky Access enrollees.

(18) Be audited by the Auditor of Public Accounts;

(19) By administrative regulation, amend the definition of high-cost conditions provided in KRS 304.17B-001 by adding other high-cost conditions; ***and***

(20) ~~[The department shall report on an annual basis to the Interim Joint Committee on Banking and Insurance the separation plan pursuant to KRS 304.17A-080 for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access; and~~

~~(21)]~~Any other actions as may be necessary and proper for the execution of the ***office's*** ~~[department's]~~ powers, duties, and obligations under KRS 304.17B-001 to 304.17B-031.

➔Section 15. KRS 304.17B-009 is amended to read as follows:

In its duties to operate and administer Kentucky Access, the ***Office of Health Data and Analytics*** ~~[department]~~ may, through itself or third parties:

(1) Exercise any and all powers granted to insurers under this chapter; and

(2) Sue or be sued.

➔Section 16. KRS 304.17B-011 is amended to read as follows:

(1) The ***Office of Health Data and Analytics*** ~~[department]~~ shall select a third-party administrator, through the state competitive bidding process, to administer Kentucky Access. The third-party administrator shall be an administrator licensed by the department. The ***office*** ~~[department]~~ shall consider criteria in selecting a third-party administrator that shall include, but not be limited to, the following:

(a) A third-party administrator's proven ability to demonstrate performance of the operations of an insurer to include the following: enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, quality improvement, drug utilization review, premium billing and collection, claims payment, and data reporting;

(b) The total cost to administer Kentucky Access;

(c) A third-party administrator's proven ability to demonstrate that Kentucky Access shall be administered in a cost-efficient manner;

(d) A third-party administrator's proven ability to demonstrate experience in two (2) or more states administering a risk pool for a minimum of a three (3) year period; and

(e) A third-party administrator's financial condition and stability.

(2) The ***office*** ~~[department]~~ may contract with the third-party administrator for a period of four (4) years with an option for a two (2) year extension as approved by the ***office*** ~~[department]~~ on a year-by-year contract basis. At least one (1) year prior to the expiration of the third-party administrator's contract, the ***office*** ~~[department]~~ may solicit third-party administrators, including the current third-party administrator, to submit bids to serve as the third-party administrator for the succeeding four (4) year period.

(3) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:

(a) Develop and establish policies and procedures for enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, case management, disease management, quality improvement, drug utilization review, premium billing and collection, data reporting, and other responsibilities determined by the ***office*** ~~[department]~~;

(b) Develop and establish policies and procedures for paying the agent referral fee under KRS 304.17B-001 to 304.17B-031;

(c) Develop and establish policies and procedures to ensure timely and efficient payment of claims to include, but not limited to, the following:

1. Develop and provide a claims billing manual to health care providers enrolled in Kentucky Access that includes information relating to the proper billing of a claim and the types of claim forms to use;

2. Payment of all claims in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder; and

3. Notification to an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility of a paid claim for deductible or coinsurance amounts;

(d) Issue denial letters under KRS 304.17A-540 for denial of preauthorization and precertification requests for medical necessity and medical appropriateness determinations;

(e) Submit information to the ***office and the*** department under KRS 304.17A-330;

(f) Submit reports to the ***office*** ~~[department]~~ regarding the operation and financial condition of Kentucky Access. The frequency, content, and form of the reports shall be determined by the ***office*** ~~[department]~~;

(g) Submit an annual report to the ***office*** ~~[department]~~ three (3) months after the end of each calendar year. The annual report shall include:

1. Earned premium;

2. Administrative expenses;

3. Incurred losses for the year;

4. Paid losses for the year;

5. Number of enrollees enrolled in Kentucky Access by category of eligibility; and

6. Any other information requested by the ***office*** ~~[department]~~; and

(h) Be subject to examination by the ***office*** ~~[department]~~ under Subtitles 2 and 3 of this chapter.

(4) The third-party administrator shall be paid for necessary and reasonable expenses, as provided in the contract between the ***office*** ~~[department]~~ and the third-party administrator.

➔Section 17. KRS 304.17B-013 is amended to read as follows:

(1) The schedule of rates, premium rates charged to enrollees, deductible amounts, copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be established by the ***Office of Health Data and Analytics*** ~~[department]~~. Premium rates charged to enrollees are not intended to fully cover the cost of providing health care coverage to Kentucky Access enrollees, and any claims in excess of premium rates shall be covered by the Kentucky Access fund.

(2) Premium rates for health benefit plans provided under Kentucky Access shall bear a reasonable relationship to each other. Premium rates shall be varied based on age and gender. The initial premium rates for plan coverage shall not exceed one hundred fifty percent (150%) of the applicable individual standard risk rates, as established by the department. In no event shall premium rates exceed one hundred seventy-five percent (175%) of the rates applicable to individual standard risks.

(3) Premium rates for coverage issued by Kentucky Access shall be established annually by the ***office*** ~~[department]~~, using reasonable actuarial principles, and shall reflect anticipated experience and expenses for risks under Kentucky Access.

➔Section 18. KRS 304.17B-015 is amended to read as follows:

(1) Any individual who is an eligible individual and a resident of Kentucky is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least one (1) insurer for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or

(c) The individual has a high-cost condition listed in KRS 304.17B-001.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) 1. The individual has, or is eligible for, on the effective date of coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section; or

2. For individuals meeting the requirements of KRS 304.17A-005(11), the individual has, or is eligible for, on the effective date of coverage under Kentucky Access, coverage under a group health plan.

An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual and an individual's spouse or dependent who was eligible for coverage but waived that coverage. That individual and the individual's spouse or dependent shall be ineligible for Kentucky Access coverage through the period of waived coverage;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Except for covered benefits paid under the standard health benefit plan as specified in KRS 304.17B-019, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the ***office*** ~~[department]~~;

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs; or

(f) The individual's premium, deductible, coinsurance, or copayment is partially or entirely paid or reimbursed by an individual or entity other than the individual or the individual's parent, grandparent, spouse, child, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, grandchild, guardian, or court-appointed payor.

(5) The coverage of any person who ceases to meet the requirements of this section or the requirements of any administrative regulation promulgated under this subtitle may be terminated.

➔Section 19. KRS 304.17B-017 is amended to read as follows:

(1) At least annually, the ***Office of Health Data and Analytics*** ~~[department]~~ shall evaluate and revise as necessary rates to be charged to Kentucky Access enrollees.

(2) Except as provided in KRS 304.17B-019, the ***office*** ~~[department]~~ may revise its health benefit plans, cost-sharing arrangements, plan delivery rules, schedule of benefits, rates, and cost-containment features provided under Kentucky Access at the time of the health benefit plan renewal as necessary to ensure that Kentucky Access maintains adequate resources for continued operation.

➔Section 20. KRS 304.17B-019 is amended to read as follows:

(1) Kentucky Access shall offer at least three (3) health benefit plans to enrollees, which shall be similar to the health benefit plans currently being marketed to individuals in the individual market.

(2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least one (1) plan may be offered in a managed-care form at such time as the ***Office of Health Data and Analytics*** ~~[department]~~ can establish an appropriate provider network in available service areas.

(3) The ***office*** ~~[department]~~ shall provide for utilization review and case management for all health benefit plans issued under Kentucky Access.

(4) The ***office*** ~~[department]~~ shall review and compare health benefit plans provided under Kentucky Access to health benefit plans provided in the individual market. Based on the review, the ***office*** ~~[department]~~ may amend or replace the health benefit plans issued under Kentucky Access.

(5) Individuals who apply and are determined eligible for health benefit plans issued under Kentucky Access shall have coverage effective the first day of the month after the application month.

(6) For eligible individuals, health benefit plans issued under Kentucky Access shall not impose any pre-existing condition exclusions. In all other cases, a pre-existing condition exclusion may be imposed in accordance with KRS 304.17A-230.

(7) Health benefit plans issued under Kentucky Access shall be guaranteed renewable except as otherwise specified in KRS 304.17B-015 and KRS 304.17A-240.

(8) All health benefit plans issued under Kentucky Access shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue under the same or a different contract.

(9) Health benefit plans issued under Kentucky Access shall coordinate benefits with other health benefit plans and be the payor of last resort.

(10) Health benefit plans issued under Kentucky Access shall pay covered benefits up to a lifetime limit of two million dollars ($2,000,000) per covered individual. The maximum limit under this subsection may be increased by the ***office*** ~~[department]~~.

➔Section 21. KRS 304.17B-021 is amended to read as follows:

(1) In addition to the other powers enumerated in KRS 304.17B-001 to 304.17B-031, the ***Office of Health Data and Analytics*** ~~[department]~~ shall assess insurers in the amounts specified in this section. The assessment shall be used for the purpose of funding GAP losses and Kentucky Access.

(a) The amount of the assessment for each calendar year shall be as follows:

1. From each stop-loss carrier, an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

2. From all insurers, an amount based on the total amount of all health benefit plan premiums earned during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the annual assessment is based. The percentage rate used for the annual assessment shall be the same percentage rate as calculated in the GAP risk adjustment process for the six (6) month period of July 1, 1998, through December 31, 1998;

3. If determined necessary by the ***office*** ~~[department]~~, a second assessment may be assessed in the same manner as the annual assessment in subparagraph 2. of this paragraph; and

4. In no event shall the sum of the first assessment provided for in subparagraph 2. of this paragraph and the second assessment provided for in subparagraph 3. of this paragraph be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums earned during the prior assessment period.

(b) The first assessment shall be for the period from January 1, 2000, through December 31, 2000, and shall be paid on or before March 31, 2001. Subsequent annual assessments shall be paid on or before March 31 of the year following the assessment period.

(2) Every supporting insurer shall report to the ***office*** ~~[department]~~, in a form and at the time as the ***office*** ~~[department]~~ may specify, the following information for the specified period:

(a) The insurer's total stop-loss premiums and health benefit plan premiums in the individual, small group, large group, and association markets; and

(b) Other information as the ***office*** ~~[department]~~ may require.

(3) As part of the assessment process, the ***office*** ~~[department]~~ shall establish and maintain the Kentucky Access fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors.

(4) The Kentucky Access fund shall be funded from the following sources:

(a) Premiums paid by Kentucky Access enrollees;

(b) The funds designated for Kentucky Access in the Kentucky Health Care Improvement fund;

(c) Appropriations from the General Assembly;

(d) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(e) Annual assessments from supporting insurers;

(f) A second assessment from supporting insurers;

(g) Gifts, grants, or other voluntary contributions;

(h) Interest or other earnings on the investment of the moneys held in the account; and

(i) Any funds remaining on January 1, 2001, in the guaranteed acceptance program account may be transferred to the Kentucky Access fund.

(5) The ***office*** ~~[department]~~ shall determine on behalf of Kentucky Access the premiums, the expenses for administration, the incurred losses, taking into account investment income and other amounts needed to satisfy reserves, estimated claim liabilities, and other obligations for each calendar year. The ***office*** ~~[department]~~ shall also determine the amount of the actual guaranteed acceptance program plan losses for each calendar year. The ***office*** ~~[department]~~ shall assess insurers as follows:

(a) On or before March 31 of each year, the amount set forth in subsection (1)(a)1. and (1)(a)2. of this section.

(b) If the amount of actual guaranteed acceptance program plan losses exceeds the assessment provided for in paragraph (a) of this subsection, a second assessment shall be authorized under subsection (1)(a)3. of this section. If the amount of GAP losses exceeds the assessments provided under subsection (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, moneys received and available from the Kentucky Health Care Improvement Fund after the ***office*** ~~[department]~~ determines available funding for Kentucky Access for the current calendar year pursuant to subsection (6) of this section, shall be used to reimburse GAP participating insurers for any actual guaranteed acceptance program losses. If the amount of GAP losses exceeds the amount in the Kentucky Health Care Improvement Fund after reserving sufficient funds for Kentucky Access for the current year, each GAP participating insurer shall be reimbursed up to the amount of its proportional share of actual guaranteed acceptance program plan losses from the fund. Effective for any assessment on or after January 1, 2001, in calculating GAP losses, total premiums and total claims of the GAP participating insurer shall be used. Actual guaranteed acceptance program losses shall be calculated as the difference between the total GAP claims and the total GAP premiums on an aggregate basis.

(c) If GAP losses are fully covered by the assessment process provided for in subsection (1)(a)1. and (1)(a)2. of this section and the second assessment provided for in subsection (1)(a)3. of this section is not necessary to cover GAP losses, and as determined by the ***office*** ~~[department]~~ using reasonable actuarial principles Kentucky Access funding is needed, a second assessment provided for in subsection (1)(a)3. of this section shall be completed.

(6) After the end of each calendar year, GAP losses shall be reimbursed only after the ***office*** ~~[department]~~ determines that appropriate funding is available for Kentucky Access for the current calendar year. GAP losses shall be reimbursed after reserving sufficient funds for Kentucky Access.

(7) With respect to a GAP participating insurer who reasonably will be expected both to pay assessments and to receive payments from the assessment fund, the ***office*** ~~[department]~~ shall calculate the net amount owed to or to be received from the fund, and the ***office*** ~~[department]~~ shall only collect assessments for or make payments from the fund based upon net amounts.

(8) Insurers paying an assessment may include in any health insurance rate filing the amount of these assessments as provided for in Subtitle 17A of this chapter.

(9) Insurers shall pay any assessment amounts authorized in KRS 304.17B-001 to 304.17B-031 within thirty (30) days of receiving notice from the ***office*** ~~[department]~~ of the assessment amount.

(10) Any surpluses remaining in the Kentucky Access fund after completion of the assessment process for a calendar year shall be maintained for use in the assessment process for future calendar years and such funds shall not lapse. The general fund appropriations to the Kentucky Access fund shall not lapse.

(11) Assessments on health benefit plan premiums that are required under KRS 304.17B-001 to 304.17B-031 shall not be applied to premiums received by an insurer for state employees, Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

(12) The ***office*** ~~[department]~~ shall direct that receipts of Kentucky Access be held at interest, and may be used to offset future losses or to reduce plan premiums in accordance with the terms of KRS 304.17B-001 to 304.17B-031. As used in this subsection, "future losses" may include reserves for incurred but not reported claims.

(13) The ***office*** ~~[department]~~ shall conduct examinations of insurers and stop-loss carriers reasonably necessary to determine if the information provided by the insurers or stop-loss carriers is accurate.

(14) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.

(15) The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.

➔Section 22. KRS 304.17B-023 is amended to read as follows:

(1) After the end of each calendar year, a GAP participating insurer shall report the following information for the previous calendar year:

(a) The total earned premium in the individual, small group, large group, and association markets;

(b) The number of GAP policies in force as of December 31;

(c) The amount of the insurer's GAP premiums received during the calendar year covered by the report;

(d) The amount of the insurer's GAP claims paid during the calendar year covered by the report;

(e) The amount of the insurer's GAP losses; and

(f) Other information as the ***office*** ~~[department]~~ may require to be reported.

(2) After the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the ***office*** ~~[department]~~ shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of GAP premiums for all reporting insurers;

(c) The total amount of GAP claims paid by all reporting insurers;

(d) The amount of total actual GAP losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the ***office*** ~~[department]~~ may elect to calculate and report.

The ***office*** ~~[department]~~ shall complete its calculation and provide each insurer the results of its calculation within sixty (60) days after receiving all required information.

(3) The ***office*** ~~[department]~~ shall pay GAP losses to GAP participating insurers in accordance with this section and KRS 304.17B-021(5).

(4) The ***office*** ~~[department]~~ shall conduct examinations of insurers participating in Kentucky Access as are reasonably necessary to determine if the information provided by the insurers is accurate.

➔Section 23. KRS 304.17B-027 is amended to read as follows:

Kentucky Access and the ***Office of Health Data and Analytics*** ~~[department]~~ shall be exempt from all taxes levied by the state or any of its subdivisions.

➔Section 24. KRS 304.17B-029 is amended to read as follows:

(1) Sixty (60) days prior to the regular session of the General Assembly in the year 2002, and sixty (60) days prior to each subsequent regular session of the General Assembly thereafter, the ***office*** ~~[department]~~ shall submit a written report to the Legislative Research Commission and provide a detailed briefing. The report shall contain an evaluation of Kentucky Access, an evaluation of issues concerning high-risk individuals, and other information as the ***office*** ~~[department]~~ deems necessary.

(2) ~~[Beginning no later than June 30, 2001, and annually thereafter,]~~The Auditor of Public Accounts shall audit Kentucky Access and within sixty (60) days of completion of the audit shall submit a copy of the audit to the Legislative Research Commission***, the Office of Health Data and Analytics,*** and the Department of Insurance.

➔Section 25. KRS 304.17B-031 is amended to read as follows:

(1) The ***Office of Health Data and Analytics*** ~~[department]~~ shall promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031.

(2) Kentucky Access shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(a) Subtitle 1;

(b) Subtitle 2;

(c) Subtitle 3;

(d) Subtitle 5;

(e) Subtitle 8;

(f) Subtitle 9;

(g) Subtitle 12;

(h) Subtitle 14;

(i) Subtitle 17;

(j) Subtitle 17A;

(k) Subtitle 25;

(l) Subtitle 38; and

(m) Subtitle 47.

➔Section 26. KRS 304.17B-033 is amended to read as follows:

(1) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established under KRS 304.17B-001(14) and recommend changes to the ***director of the Division of Health Benefit Exchange*** ~~[commissioner]~~. The ***director*** ~~[commissioner]~~ may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the ***director*** ~~[commissioner]~~ deems appropriate. The council, in making recommendations, and the ***director*** ~~[commissioner]~~, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(2) The ***director*** ~~[commissioner]~~ may by administrative regulation add to or delete from the list of high-cost conditions for Kentucky Access.

➔Section 27. KRS 304.2-020 is amended to read as follows:

(1) The commissioner is the head of the Department of Insurance.

(2) The commissioner shall be appointed by the Governor with the consent of the Senate, for a term not to exceed four (4) years on the basis of his or her merit and fitness to perform the duties of the office as provided in KRS 12.040. If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened. Nothing contained in this subsection shall prohibit the commissioner of the Department of Insurance from being reappointed.

(3) The following divisions are established within the Department of Insurance and shall be headed by directors appointed by the secretary of the Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050:

(a) Division of Insurance Product Regulation;

(b) Division of Administrative Services;

(c) Division of Financial Standards and Examination;

(d) Division of Agent Licensing;

(e) Division of Insurance Fraud Investigation; ***and***

(f) Division of Consumer Protection~~[; and~~

~~(g) Division of Kentucky Access]~~.

➔Section 28. KRS 304.2-100 is amended to read as follows:

(1) The commissioner shall personally supervise the operations of the department.

(2) The commissioner shall examine and inquire into violations of this code, shall enforce the provisions of this code with impartiality and shall execute the duties imposed upon him or her by this code.

(3) The commissioner shall have the powers and authority expressly conferred upon him or her by or reasonably implied from the provisions of this code.

(4) The commissioner may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as the commissioner may deem proper upon reasonable and probable cause to determine whether any person has violated any provisions of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

(5) The commissioner may establish and maintain such branch offices in this state as may be reasonably required for the efficient administration of this code.

(6) The commissioner shall have such additional powers and duties as may be provided by other laws of this state.

(7) The commissioner shall assist the Office of Health Data and Analytics in carrying out subtitle 17B of KRS Chapter 304 and Section 3 of this Act.

➔Section 29. The following KRS sections are repealed:

260.660 Legislative intent of KRS 260.660 to 260.665.

260.661 Definitions for KRS 260.660 to 260.665.

260.662 Kentucky Milk Commission established.

260.663 Membership of commission -- Terms -- Meetings.

260.664 Duties of commission.

260.665 Dairy industry fund.

➔Section 30. 2007 Ky. Acts ch. 61 (2007 Regular Session House Joint Resolution 137) is hereby repealed.

➔Section 31. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

➔Section 32. Notwithstanding KRS 12.028(5), the General Assembly hereby confirms Executive Order 2018-325, dated May 14, 2018, relating to the Reorganization of the Cabinet for Health and Family Services; and Executive Order 2018-780, dated September 21, 2018, also relating to the Reorganization of the Cabinet for Health and Family Services, to the extent that they are not otherwise confirmed or superseded by this Act.

Signed by Governor March 25, 2019.

CHAPTER 91

(SB 172)

AN ACT relating to local financial reporting.

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

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

(1) Except as provided in subsections (2) ***to (4)***~~[and (3)]~~ of this section, each city shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The ***audit***~~[audits]~~ shall be completed by February 1 immediately following the fiscal year being audited. ~~[Within ten (10) days of the completion of the audit and its presentation to the city legislative body in accordance with subsection (6)(e) of this section, each]~~***The*** city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes ***by no later than March 1 immediately following the fiscal year being audited***.

(2) ***In lieu of the annual audit requirements in subsection (1) of this section,*** a city with a population ***equal to or***~~[of]~~ less than ***one thousand (1,000)***~~[two thousand (2,000)]~~ based upon the most recent federal decennial census ***may***~~[shall,]~~ ***elect to have an audit performed every other fiscal year in the following manner:***

(a) After the close of each odd-numbered fiscal year, ***the city shall for that odd-numbered year*** cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. ~~[The audit shall include both fiscal years since the prior audit.]~~The audits shall be completed by February 1 immediately following the fiscal year to be audited. ~~[Within ten (10) days of the completion of the audit and its presentation to the city legislative body in accordance with subsection (6)(e) of this section,]~~The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes ***by no later than March 1 immediately following the fiscal year being audited; and***~~[.]~~

(b) After the close of each even-numbered fiscal year, ***the city shall not be required to complete an annual audit but shall forward an electronic copy of its***~~[each city subject to the provisions of this subsection~~

~~shall prepare a~~] financial statement ***prepared*** in accordance with KRS 424.220 ~~[and shall, not later than October 1, forward one (1) electronic copy]~~to the Department for Local Government ***by no later than October 1 immediately following the close of the even-numbered fiscal year***.

(3) ***In lieu of the annual audit requirements in subsection (1) of this section, a city with a population of more than one thousand (1,000) but less than two thousand (2,000) based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year to cover the two (2) fiscal years occurring since the prior audit in the following manner:***

(a) After the close of each odd-numbered fiscal year, the city shall cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audit shall include both fiscal years since the prior audit and shall be completed by February 1 immediately following the fiscal years to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than March 1 immediately following the fiscal years being audited; and

(b) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with Section 2 of this Act to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.

(4) Any city, which for any fiscal year receives and expends, from all sources and for all purposes, less than seventy-five thousand dollars ($75,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city exempted in accordance with this subsection shall annually prepare a financial statement in accordance with KRS 424.220 and shall, not later than October 1 following the conclusion of the fiscal year, forward one (1) electronic copy to the Department for Local Government for information purposes.

(5)~~[(4)]~~ If a city is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the city shall also comply with the provisions of that law.

(6)~~[(5)]~~ The Department for Local Government shall, upon request, make available electronic copies of the audit reports and financial statements received by it under subsections (1) to ***(4)***~~[(3)]~~ of this section to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.

(7)~~[(6)]~~ Each city required by this section to conduct an annual or biennial audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include but not be limited to requirements that:

(a) The auditor be employed to examine the basic financial statements, which shall include the government-wide and fund financial statements;

(b) The auditor shall include in the annual or biennial city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual or biennial audit report that the funds were expended for the purpose intended;

(c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(d) The auditor shall prepare a typewritten or printed report embodying:

1. The basic financial statements and accompanying supplemental and required supplemental information;

2. The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and

3. Findings required to be reported as a result of the audit;

(e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and

(f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.

(8) ~~[(7)]~~ A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

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

(a) The auditor's opinion letter;

(b) The "Budgetary Comparison Schedules-Major Funds," which shall include the general fund and all major funds;

(c) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours;

(d) A statement that any citizen may obtain from city hall a copy of the complete audit report, including financial statements and supplemental information, for his personal use;

(e) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents ($0.25) per page; and

(f) A statement that copies of the financial statement prepared in accordance with KRS 424.220, when a financial statement is required by KRS 424.220, are available to the public at no cost at the business address of the officer responsible for preparation of the statement.

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

(11) ~~[(10)]~~ In the event of extenuating circumstances that prevent a city from completing and submitting a required audit or financial statement in compliance with the applicable deadlines in subsections (1) to ***(4)*** ~~[(3)]~~ of this section, the city may submit a written request for an extension of time to the Department for Local Government on a form prescribed by the Department for Local Government. The Department for Local Government shall approve the request if it is submitted on or before the applicable deadline and, in the judgment of the Department for Local Government, the request is warranted by extenuating circumstances beyond the control of the city. Extensions granted under this subsection shall not exceed nine (9) months from the original due date of the audit or financial statement. If the Department for Local Government approves an extension for a city and the city fails to complete and submit the required audit or financial statement in compliance with that extended deadline, then the provisions of subsection ***(12)*** ~~[(11)]~~ of this section shall apply.

(12) ~~[(11)]~~ If a city fails to complete an audit or financial statement and submit it to the Department for Local Government as required in subsections (1) to ***(4)*** ~~[(3)]~~ and ***(11)*** ~~[(10)]~~ of this section, the Department for Local Government shall notify the Finance and Administration Cabinet that the city has failed to comply with the audit requirements of this section, and that any funds in the possession of any agency, entity, or branch of state government shall be withheld from the city until further notice. The Department for Local Government shall immediately notify the Finance and Administration Cabinet when the city complies with the requirements of subsections (1) to ***(4)*** ~~[(3)]~~ and ***(11)*** ~~[(10)]~~ of this section for all prior fiscal years it has failed to comply with the audit requirements of this section, and the Finance and Administration Cabinet shall direct the reinstatement of payments to the city, including any funds that were withheld due to the noncompliance.

(13) ~~[(12)]~~ Within a reasonable time after the completion of a special audit or examination conducted pursuant to KRS 43.050, the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work performed on the audit or examination as well as reasonable

associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours, and total costs for the entire audit or examination.

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

(1) Excepting officers ***who are exempted under subsection (8) of this section***~~[of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county, or of a school district of such a city, consolidated local government, or county, and excepting officers of a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census or an urban county government]~~, every public officer of any school district, city, ~~[consolidated local government,]~~county, ~~[or subdivision,]~~or district less than a county, ***or of any board, commission, or other authority of a city, county, or district*** whose duty it is to collect, receive, have the custody, control, or disbursement of ***any***~~[public]~~ funds ***collected from the public in any form***~~[, and every officer of any board or commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits,]~~ shall***,*** at the expiration of each fiscal year***,*** prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him ***or her*** during the fiscal year just closed, unless he ***or she*** has complied with KRS 424.230.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee. The list shall include only aggregate amounts to vendors exceeding one thousand dollars ($1,000).

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.

(4) The financial reporting and publishing requirements for a school district are provided in KRS 160.463.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) ***To provide notice to the public that the city's financial statement has been completed as required by***~~[Except as provided in subsection (7) of this section, the officer shall within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts.~~

~~(7) In lieu of the publication requirements of subsection (6) of]~~ this section:

(a) The appropriate officer of a city ***that has performed***~~[required to perform]~~ an audit under KRS 91A.040 ***for the fiscal year or years***, including the appropriate officer of any municipally owned electric, gas, or water system***, shall publish the***~~[, may elect to satisfy the requirements of subsection (6) of this section by:~~

~~1. Publishing an]~~ audit report in accordance with KRS 91A.040***(9)***~~[(8)]~~**.**

(b) The appropriate officer of a city that has not conducted an annual audit for the fiscal year under one (1) of the exceptions provided in subsection (2), (3), or (4) of Section 1 of this Act shall publish~~[; and~~

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

~~(b) The appropriate officer of a city that has not conducted an annual audit under the exceptions provided under KRS 91A.040(2) and (3) may publish the legal display advertisement meeting the requirements of paragraph (a)2. of this subsection.]~~

(7) ~~[(8)]~~ ***To provide notice to the public that the county's financial statement has been completed as required by this section,*** the appropriate officer of a county shall ***publish*** ~~[satisfy the requirements of subsection (6) of this section by publishing]~~ the county's audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040***(9)*** ~~[(8)]~~.

(8) The provisions of this section shall not apply to officers of:

(a) A city of the first class;

(b) A county containing a city of the first class;

(c) A consolidated local government;

(d) An urban-county government;

(e) A city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census;

(f) A public agency or joint public agency of a:

1. City of the first class;

2. Consolidated local government; or

3. County containing a city of the first class; or

(g) A school district of a:

1. City of the first class;

2. Consolidated local government; or

3. County containing a city of the first class.

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

Except as provided in KRS 91A.040***(7)*** ~~[(6)]~~(b), any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department for Local Government, in the case of assistance granted from the local government economic assistance fund or the local government economic development fund as allocated in KRS 42.4592(1)(a) and (b), or to the Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

Signed by Governor March 25, 2019.

CHAPTER 92

(SB 178)

AN ACT relating to the Kentucky Military History Museum.

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

➔Section 1. KRS 171.345 is amended to read as follows:

(1) There is established the Kentucky Military History Museum which shall be housed in the State Arsenal, and shall serve as repository of objects relating to the Commonwealth's military history.

(2) The Kentucky Historical Society and its staff shall maintain the museum, receive, store and catalogue all military historical items, and exercise fiduciary responsibility in the preservation and maintenance of the State Arsenal and all objects placed or loaned for display therein.

(3) The Department for Military Affairs and the adjutant general shall provide the State Arsenal as the museum facility, shall maintain and operate the building and grounds, and shall cooperate in contributing items of military history for display within the museum.

(4)~~[There is hereby created the Kentucky Military History Museum Committee which shall establish policies and procedures for operation of the Military History Museum.~~

~~(5) (a) The committee shall be composed of the following:~~

~~1. The adjutant general, as an ex officio voting member;~~

~~2. The commissioner of the Department of Veterans' Affairs, as an ex officio voting member;~~

~~3. The executive director of the Commission on Military Affairs, as an ex officio voting member;~~

~~4. The executive director of the Historical Society, as an ex officio voting member; and~~

~~5. Twelve (12) members appointed by the Governor under paragraph (b) of this subsection.~~

~~(b) 1. Members of the Kentucky Military History Museum Committee shall be appointed under this paragraph. By December 15, 2005, the adjutant general and the executive director of the Historical Society shall each submit six (6) lists of three (3) nominees each. By December 31, 2005, the Governor shall appoint the twelve (12) new members by selecting one (1) member from each list as provided for in subparagraph 2. of this paragraph. Every list shall include at least one (1) nominee with military service, and the ex officio members and the Governor shall give due consideration to fair representation on the committee from all branches of the military.~~

~~2. The Governor shall appoint the first member from a list submitted by the adjutant general, the second from a list submitted by the executive director of the Historical Society, and the third from a list submitted by the adjutant general. In this manner, the Governor shall alternate until the twelve (12) new members are appointed. The terms of the twelve (12) new members shall begin January 1, 2006.~~

~~3. The terms of the twelve (12) new members shall be staggered by one (1) year upon each successive appointment, the first member appointed to serve a term of one (1) year with each successive member to serve one (1) more year than the prior appointed member's term. This cycle shall begin again for every fifth member appointed to a vacancy so that no member shall be appointed to a term that exceeds four (4) years in length.~~

~~4. a. Except as provided in subdivision b. of this subparagraph, after the initial round of twelve (12) appointments, the terms for all members shall be four (4) years, and the method of appointment shall continue the practice of the Governor alternating between lists of three (3) nominees submitted by the adjutant general and the executive director of the Historical Society. A list of nominees shall be submitted by December 15, and the Governor shall make the appointment by December 31. The member's term shall begin January 1.~~

~~b. If any person fails to complete his or her term, whether an initial term beginning January 1, 2006, or later, his or her successor shall be appointed to complete the unexpired term. The Governor shall appoint the successor from a list of three (3) nominees submitted by the same official, the adjutant general or the executive director of the Historical Society, who submitted the list of three (3) nominees from which the predecessor was appointed. The list shall be submitted to the Governor within fifteen (15) days after the vacancy occurs, and the Governor shall make his or her appointment from the list within fifteen (15) days after the submission.~~

~~5. No committee member shall serve more than two (2) consecutive terms. A person appointed to finish an unexpired term exceeding two (2) years shall be deemed to have served a full term. A former member may be reappointed following an absence of one (1) term.~~

~~(c) A committee member shall be removed for cause only when nine (9) members of the committee vote for removal. Failure to attend at least half of the committee meetings in a calendar year shall be sufficient cause.~~

~~(d) 1. In February of every even numbered year, the committee shall elect a chair, vice chair, and secretary, each to serve two (2) year terms. In the absence of the chair or in the event of a vacancy in that position, the vice chair shall serve as chair.~~

~~2. If a chair, vice chair, or secretary fails to complete his or her two (2) year term, the committee, within thirty (30) days of the vacancy, shall appoint a successor to complete the term.~~

~~3. A quorum shall consist of eight (8) or more of the fourteen (14) members. Except as provided in paragraph (c) of this subsection, an affirmative vote of a majority of a quorum shall be necessary for committee action.~~

~~(6)]~~ The Military History Museum ~~[and committee]~~shall be attached to the Kentucky Historical Society for administrative and other purposes~~;[.]~~

(5) The Kentucky Historical Society may empanel such advisory committees as it determines to be necessary to assist in the administration of the Military History Museum. Members of such committees shall serve as needed without compensation or reimbursement.

(6) The Kentucky Historical Society may promulgate administrative regulations as necessary for the operation of the Military History Museum.

➔Section 2. The General Assembly hereby confirms Executive Order 2018-718, dated August 29, 2018, relating to the reorganization of the Kentucky Military History Museum, to the extent that it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 25, 2019.

CHAPTER 93

(SB 202)

AN ACT relating to local tourist and convention commissions.

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

➔Section 1. KRS 91A.380 is amended to read as follows:

(1) The commission established pursuant to KRS 91A.350(3) shall be composed of six (6) members from each county to be appointed by the county judge/executive, with the approval of the fiscal court~~[, one (1) of whom shall be a member of the General Assembly in whose district the county or part of the county is located]~~ in the following manner:

(a) Two (2) commissioners with an accounting, finance, or business background, one (1) of which is a member of the local chamber of commerce;

(b) One (1) commissioner selected from the public at-large;

(c) One (1) commissioner from the General Assembly;

(d) One (1) commissioner representing local restaurants; and

(e) One (1) commissioner representing local hotels and motels.

~~[(a) One (1) commissioner from a list of at least three (3) persons submitted by the local restaurant association or associations;~~

~~(b) One (1) commissioner from a list of at least three (3) persons submitted by the local chamber of commerce;~~

~~(c) One (1) commissioner by the county judge/executive; and~~

~~(d) Two (2) commissioners from a list of at least six (6) persons submitted by the local hotel and motel association or associations.]~~

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided that in making the initial appointments, the county judge/executive shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and two (2) commissioners for a term of one (1) year.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business.

(5) The books of the commission and its account as established in KRS 91A.390(2) shall be audited as provided in KRS 65A.030. The independent certified public accountant or Auditor of Public Accounts shall make a report

to the commission, to the organizations submitting names from which commission members are selected, and to the county judge/executive of each county. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.

(6) A commissioner may be removed from office as provided by KRS 65.007.

(7) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

Signed by Governor March 25, 2019.

CHAPTER 94

(SB 219)

AN ACT relating to amusement parks.

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

➔Section 1. KRS 247.232 is amended to read as follows:

As used in KRS 247.232 to 247.236:

(1) (a) "Amusement ride or attraction" means:

1. Any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or

2. Any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement.

(b) Unless designated by administrative regulation promulgated by the Commissioner, "amusement ride or attraction" does not include:

1. Coin-operated amusement devices;

2. Devices regulated by the Federal Aviation Administration, the Kentucky Transportation Cabinet, or the federal railroad commission;

3. Vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources;

4. Tractor pulls;

5. Auto or motorcycle events;

6. Horse shows, rodeos, and other animal shows;

7. Games and concessions; or

8. Nonmechanical playground equipment, such as swings, seesaws, slides less than fifteen (15) feet in height at their highest point, rider-propelled merry-go-rounds, stationary spring-mounted animal devices, and physical fitness equipment.

The Commissioner may, by administrative regulation, designate other rides and attractions that are not included in the definition of "amusement ride or attraction";

(2) "Owner" means any person or authorized agent of the person who owns an amusement ride or attraction or, in the event the ride or attraction is leased, the lessee;

(3) "Commissioner" means the Commissioner of the Kentucky Department of Agriculture or the Commissioner's authorized representative;

(4) "Operator" means a person ***sixteen (16)*** ~~[eighteen (18)]~~ years of age or older who has been properly trained to operate amusement rides and attractions, has knowledge of the manufacturer's recommendations for the operation of the rides and attractions, and knows the safety-based limitations of the rides and attractions; ***and***

~~[(5) "Operator assistant" means a person sixteen (16) years of age or older whose duties include but are not limited to:~~

~~(a) Loading and unloading riders of amusement rides and attractions;~~

~~(b) Collecting tickets;~~

~~(c) Checking seatbelts, lap bars, and other restraints; and~~

~~(d) Occupying the entrance or exit areas to prevent intrusion while the amusement ride or attraction is in operation;~~

~~but who shall not operate an amusement ride or attraction; and]~~

(5)~~[(6)]~~ "ASTM Standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials.

➔Section 2. KRS 247.233 is amended to read as follows:

(1) The owner of any amusement ride or attraction shall, within twelve (12) hours, notify the Commissioner of any occurrence involving an amusement ride or attraction if the occurrence results in:

(a) Death;

(b) Injury ***to a person, where:***

1. The owner knows or reasonably should know that the injury was caused by the amusement ride or attraction; and

2. The owner knows or reasonably should know that the injury required medical treatment other than first aid~~[requiring ambulance or emergency vehicle transport to a hospital from the site, where the injury is a result of a failure of the amusement ride or attraction]~~; or

(c) Damage to an amusement ride or attraction that affects the future safe operation of the ride or attraction. Reporting is not required in the case of normal wear and tear.

(2) The Commissioner shall, after notification of an occurrence described in subsection (1) of this section, make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the department and shall give in detail all facts and information available. The owner may submit results of investigations independent of the department's investigation for inclusion in the file.

(3) No person, following an occurrence described in subsection (1) of this section, shall:

(a) Operate or move the amusement ride or attraction without the approval of the Commissioner, unless necessary to prevent injury to a person; or

(b) Remove from the premises any damaged or undamaged part of the amusement ride or attraction or attempt to repair any damaged part before the department has completed its investigation. The department shall initiate its investigation within twelve (12) hours of being notified.

(4) The department may:

(a) Conduct hearings;

(b) Administratively subpoena and examine under oath persons whose activities are subject to KRS 247.232 to 247.236;

(c) Issue administrative subpoenas and examine the business records, books, and accounts of persons whose activities are subject to KRS 247.232 to 247.236; and

(d) Request any other information necessary to assist the department in properly performing the department's duties.

(5) The department shall have control of any incident scene involving an amusement ride or attraction if there has been an occurrence described in subsection (1) of this section. The department shall remain in control of the scene until the department completes its investigation and releases the scene. The department shall have access within twelve (12) hours to all documents or records pertaining to the amusement ride or attraction.

(6) (a) The department shall promulgate administrative regulations relating to amusement rides and attractions that establish:

1. A comprehensive set of administrative violations and civil penalties not to exceed ten thousand dollars ($10,000); and

2. The procedure for the suspension or revocation of any business identification number, license, or other certificate issued by the department.

(b) No owner of an amusement ride or attraction shall remove the amusement ride or attraction from the state before paying all civil penalties imposed under this subsection.

➔Section 3. KRS 247.236 is amended to read as follows:

(1) Amusement rides and attractions shall not be operated at unsafe speeds or loaded beyond a safe capacity in accordance with the factory specifications or, in the absence of factory specifications, in accordance with administrative regulations promulgated by the Commissioner.

(2) Amusement rides and attractions shall not be operated during periods of high wind, lightning, or heavy rain.

(3) Perimeter safety barriers such as a fence or other suitable structure shall be constructed around any amusement ride or attraction that is potentially hazardous to bystanders, in accordance with administrative regulations promulgated by the Commissioner.

(4) Amusement rides and attractions shall not be operated if the owner or operator knows or should know that the operation will expose the public to an unsafe condition which is likely to result in personal injury or property damage.

(5) (a) No person under the age of ***sixteen (16)***~~[eighteen (18)]~~ shall operate an amusement ride or attraction or operate more than one (1) ride or attraction at a time. Except as provided by paragraph (c) of this subsection, an operator shall be in attendance at all times while a ride or attraction is in operation.

(b) No person shall operate an amusement ride or attraction or knowingly permit an operator to operate an amusement ride or attraction while under the influence of alcohol or any other impairing substance.

(c) The Commissioner may, by administrative regulation, designate certain amusement rides or attractions where the presence of an operator is not required.

(6) The owner ***or***~~[,]~~ operator~~[, or operator assistant]~~ may deny any person entrance to an amusement ride or attraction if the owner ***or***~~[,]~~ operator~~[, or operator assistant]~~ has reason to believe the entry may jeopardize the safety of the person desiring entry, other riders, or any other person.

Signed by Governor March 25, 2019.

CHAPTER 95

(HB 191)

AN ACT relating to the revocation of peace officer certification.

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

➔Section 1. KRS 15.391 is amended to read as follows:

(1) As used in this section:

(a) "Agency" means any law enforcement agency, or other unit of government listed in KRS 15.380, that employs a certified peace officer;

(b) "Final order" has the same meaning as in KRS 13B.010;

(c) "General employment policy" means a rule, regulation, policy, or procedure commonly applicable to the general workforce or civilian employees that is not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether the rule, regulation, policy, or procedure exists or appears in a manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;

(d) "Professional malfeasance" means engaging in an act in one's professional capacity as a peace officer that violates a federal, state, or local law or regulation;

(e) "Professional nonfeasance" means a failure to perform one's professional duty as a peace officer through omission or inaction that violates a federal, state, or local law or regulation; and

(f) "Regulation" means:

1. A federal or state administrative regulation adopted by a federal or state executive branch; and

2. A local rule, regulation, policy, or procedure adopted by ordinance, order, or resolution, or other official action by an agency. However, "regulation" does not mean a general employment policy.

(2) (a) The certification of a peace officer ***shall*** ~~[may, after a hearing held in conformity with KRS Chapter 13B,]~~ be revoked by the council for one (1) or more of the following:

1. ~~[(1) Failure to meet or maintain training requirements;~~

~~(2) Willful falsification of information to obtain or maintain certified status;~~

~~(3)]~~ Certification that was the result of an administrative error;

2. ~~[(4)]~~ Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

3. ~~[(5)]~~ Prohibition by federal or state law from possessing a firearm; or

4. ~~[(6)]~~ Receipt of a dishonorable discharge ***or*** ~~[,]~~ bad conduct discharge ~~[, or general discharge under other than honorable conditions]~~ from any branch of the Armed Forces of the United States.

(b) A peace officer whose certification is revoked pursuant to paragraph (a) of this subsection may file an appeal with the council. If an appeal is filed, the council shall conduct an administrative hearing pursuant to KRS Chapter 13B to consider the reinstatement of the peace officer's certification if the revocation was made in error or the condition requiring revocation was removed or remedied.

(3) (a) The certification of a peace officer may be revoked by the council for one (1) or more of the following:

1. Termination of the peace officer for willful falsification of information to obtain or maintain certified status;

2. Termination of the peace officer for failure to meet or maintain training requirements, unless the certification is in inactive status. As used in this subparagraph, "inactive status" has the same meaning as in Section 2 of this Act;

3. Termination of the peace officer for professional malfeasance or professional nonfeasance by his or her agency;

4. Resignation or retirement of the peace officer while he or she is under criminal investigation or administrative investigation for professional malfeasance or professional nonfeasance that, in the judgement of the agency that employed the peace officer, would have likely resulted in the termination of that peace officer had it been substantiated prior to his or her resignation or retirement; or

5. Receipt of general discharge under other than honorable conditions from any branch of the Armed Forces of the United States that results in the termination of the peace officer from his or her agency.

(b) The council shall review any allegations or reports of subparagraphs 1. to 5. of paragraph (a) of this subsection to determine whether the allegation or report warrants the initiation of proceedings to revoke a peace officer's certification. If the council determines to initiate proceedings to revoke a peace officer's certification based on the allegation or report, the administrative hearing shall be conducted pursuant to KRS Chapter 13B.

(4) A peace officer may appeal a final order issued by the council denying reinstatement of his or her certification pursuant to subsection (2) of this section or revoking his or her certification pursuant to subsection (3) of this section as provided in KRS 13B.140.

(5) (a) An agency:

1. That has knowledge of a peace officer in its employment who meets any of the revocation conditions outlined in subsection (2) of this section shall report that condition to the council within fifteen (15) days of gaining knowledge;

2. Who terminated a peace officer for any of the revocation conditions outlined in subsection (3)(a)1., 2., 3., or 5. of this section shall report that condition to the council within fifteen (15) days of the termination; and

3. That would have likely terminated a peace officer for the revocation condition outlined in subsection (3)(a)4. of this section shall report that condition to the council within fifteen (15) days of the peace officer's resignation or retirement. If an agency reports pursuant to this subparagraph, the agency shall notify the peace officer that a report has been made.

(b) If an agency fails to make a report required by this subsection, the council may suspend the agency from participation in the Kentucky Law Enforcement Foundation Program fund. However, the time that an agency may be suspended by the council under this paragraph shall not exceed five (5) years.

(6) The council may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔Section 2. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those peace officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate.

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed.

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer powers; or

2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she meets the requirements of KRS 15.400(1) or has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.391 and successfully completes in-service training as prescribed by the council, as follows:

1. If the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation, he or she shall complete:

a. The twenty-four (24) hour legal update Penal Code course;

b. The sixteen (16) hour legal update constitutional procedure course; and

c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; or

2. If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation, he or she shall complete:

a. The twenty-four (24) hour legal update Penal Code course;

b. The sixteen (16) hour legal update constitutional procedure course;

c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and

d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:

i. Basic officer skills;

ii. Orientation for new police chiefs; or

iii. Mandatory duties of the sheriff.

(c) A person returning from inactive to active certification after June 26, 2007, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:

1. Be a citizen of the United States;

2. Possess a valid license to operate a motor vehicle;

3. Be fingerprinted for a criminal background check;

4. Not have been convicted of any felony;

5. Not be prohibited by federal or state law from possessing a firearm;

6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;

8. Have been interviewed by the employing agency; and

9. Not have had certification as a peace officer permanently revoked in another state.

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.

(5) "Revoked status" means that the officer has no enforcement powers and his or her certification has been revoked by the Kentucky Law Enforcement Council ***under Section 1 of this Act***~~[for any one (1) of the following reasons:~~

~~(a) Failure to meet or maintain training requirements;~~

~~(b) Willful falsification of information to obtain or maintain certified status;~~

~~(c) Certification was the result of an administrative error;~~

~~(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;~~

~~(e) Prohibition by federal or state law from possessing a firearm; or~~

~~(f) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States]~~.

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

(7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

➔Section 3. KRS 15.440 is amended to read as follows:

(1) Each unit of government that meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(a) Employs one (1) or more police officers;

(b) Pays every police officer at least the minimum federal wage;

(c) Requires all police officers to have, at a minimum, a high school degree, or its equivalent as determined by the council, except that each police officer employed prior to the date on which the officer's police

department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection;

(d) 1. Requires all police officers to successfully complete a basic training course of nine hundred twenty-eight (928) hours' duration within one (1) year of the date of employment at a school certified or recognized by the council, which may provide a different number of hours of instruction as established in this paragraph, except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection.

2. As the exclusive method by which the number of hours required for basic training courses shall be modified from that which is specifically established by this paragraph, the council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, explicitly set the exact number of hours for basic training at a number different from nine hundred twenty-eight (928) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis.

3. If the council sets an exact number of hours different from nine hundred twenty-eight (928) in an administrative regulation as provided by this paragraph, it shall not further change the number of hours required for basic training without promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.

4. Nothing in this paragraph shall be interpreted to prevent the council, pursuant to its authority under KRS 15.330, from approving training schools with a curriculum requiring attendance of a number of hours that exceeds nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation as provided by subparagraphs 2. and 3. of this paragraph. However, the training programs and schools for the basic training of law enforcement personnel conducted by the department pursuant to KRS 15A.070 shall not contain a curriculum that requires attendance of a number of hours for basic training that is different from nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation promulgated by the council pursuant to the provisions of KRS Chapter 13A as provided by subparagraphs 2. and 3. of this paragraph.

5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph to the contrary notwithstanding, the council may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, approve basic training credit for:

a. Years of service credit as a law enforcement officer with previous service in another state; and

b. Basic training completed in another state;

(e) Requires all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of the officer's police department, of forty (40) hours' duration, of which the number of hours shall not be changed by the council, at a school certified or recognized by the council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

(f) Complies with all provisions of law applicable to police officers or police departments, including transmission of data to the centralized criminal history record information system as required by KRS 17.150 ***and transmission of reports as required by Section 1 of this Act***;

(g) Complies with all rules and regulations, appropriate to the size and location of the police department issued by the cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that has been approved by the cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include a purpose statement; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Health and Family

Services, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records; and

(i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards provided by, and has been approved by, the cabinet, and which includes:

1. A requirement that evidence collected as a result of an examination performed under KRS 216B.400 be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;

2. A requirement that evidence received from a collecting facility relating to an incident which occurred outside the jurisdiction of the police department be transmitted to a police department with jurisdiction within ten (10) days of its receipt by the police department;

3. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to the Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the police department;

4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and

5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples, and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a suspect is apprehended or the office of the Commonwealth's attorney consents to the notification, but shall not automatically require the disclosure of the identity of any person to whom the evidence matched.

(2) A unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund only if the police department of the unit of government remains in compliance with the requirements of this section.

(3) Deputies employed by a sheriff's office shall be eligible to participate in the distribution of funds from the Law Enforcement Foundation Program fund regardless of participation by the sheriff.

(4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

Signed by Governor March 26, 2019.

CHAPTER 96

(HB 130)

AN ACT relating to terroristic threatening.

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

➔Section 1. KRS 508.078 is amended to read as follows:

(1) A person is guilty of terroristic threatening in the second degree when, other than as provided in KRS 508.075, he or she intentionally:

(a) With respect to ***any scheduled, publicly advertised event open to the public, any place of worship, or any***~~[a]~~ school function, threatens to commit any act likely to result in death or serious physical injury to any ***person at a scheduled, publicly advertised event open to the public, any person at a place of worship, or any*** student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education, or to any other person reasonably expected to lawfully be on school property or at a school-sanctioned activity, if the threat is related to their employment by a school, or work or attendance at school, or a school function. A threat directed at a person or persons ***at a scheduled, publicly advertised event open to the public, place of***

worship, or~~[at a]~~ school does not need to identify a specific person or persons or school in order for a violation of this section to occur;

(b) Makes false statements that he or she has placed a weapon of mass destruction at any location other than one specified in KRS 508.075; or

(c) Without lawful authority places a counterfeit weapon of mass destruction at any location other than one specified in KRS 508.075.

(2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.

(3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.

(4) ***Except as provided in subsection (5) of this section,*** terroristic threatening in the second degree is a Class D felony.

(5) Terroristic threatening in the second degree is a Class C felony when, in addition to violating subsection (1) of this section, the person intentionally engages in substantial conduct required to prepare for or carry out the threatened act, including but not limited to gathering weapons, ammunition, body armor, vehicles, or materials required to manufacture a weapon of mass destruction.

➔Section 2. The restrictions of KRS 6.945(1) shall not apply to Section 1 of this Act.

Signed by Governor March 26, 2019.

CHAPTER 97

(SB 115)

AN ACT relating to alcoholic beverage control investigators.

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

➔Section 1. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

(a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;

(b) City, county, and urban-county police officers;

(c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

(d) State or public university police officers appointed pursuant to KRS 164.950;

(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Department of Alcoholic Beverage Control investigators appointed under KRS 241.090;

(h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;

(i) Fire investigators appointed or employed under KRS 95A.100 or 227.220; and

(j) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.

(2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers;

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and

(i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and

(j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;

(d) Jailers;

(e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and

(f) Commissioner of the State Police.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

(7) Local alcoholic beverage control investigators appointed under KRS Chapter 241 on or after April 1, 2019, shall be certified by the council if all minimum standards set forth in KRS 15.380 to 15.404 have been met. Local alcoholic beverage control investigators appointed under KRS Chapter 241 before April 1, 2019, shall be exempt from this requirement.

Signed by Governor March 26, 2019.

CHAPTER 98

(HB 110)

AN ACT relating to the disposition of human remains.

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

➔Section 1. KRS 367.97524 is amended to read as follows:

(1) A crematory authority shall not conduct any cremations, nor accept a body for cremation, unless it has a cremation authorization form signed by the authorizing agent clearly stating the disposition to be made of the cremated remains.

(2) Cremated remains shall be disposed of by placing them in a grave, crypt, or niche; by scattering them in a scattering area; or in any manner on the private property of a consenting owner. The crematory authority or funeral director as defined in KRS 316.010 may deliver, either in person or by a method that has an internal tracking system that provides a receipt signed by the person accepting delivery, the cremated remains to the designated individual specified on the cremation authorization form. Upon receipt of the cremated remains, the individual receiving them may keep or transport them in any manner in this Commonwealth without a permit. After delivery, the crematory authority or funeral home shall be discharged from any legal obligation or liability concerning the cremated remains relative to disposition.

(3) ***If the cremated remains have remained unclaimed for a period of at least two (2) years, a funeral director may inter, bury, entomb, or place the cremated remains in a columbarium or may deliver the cremated remains to a bona fide religious society, veterans organization, or civic group in person or by a delivery method that utilizes an internal tracking system that provides a receipt signed by the individual accepting delivery, for the sole purpose of interment, burial, entombment, or placement in a columbarium. If such a delivery is made, the funeral director or crematory authority shall maintain records of the delivery for at least ten (10) years from the date of delivery.***

(4) A crematory authority or a licensed funeral director arranging a cremation shall not be held liable for good faith reliance on representations made by the authorizing agent regarding the authority to cremate.

(5) A crematory authority or licensed funeral director shall not be held liable for delivering cremated remains that have been in their possession for two (2) years or more to a bona fide religious society, veterans group, or civic organization for the sole purpose of interment, burial, entombment, or placement in a columbarium.

Signed by Governor March 26, 2019.

CHAPTER 99

(HB 108)

AN ACT relating to wills.

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

➔Section 1. The following KRS section is repealed:

394.110 Will may be deposited with clerk for safekeeping.

Signed by Governor March 26, 2019.

CHAPTER 100

(HB 106)

AN ACT relating to emergency medical services.

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

➔Section 1. KRS 311A.010 is amended to read as follows:

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

(1) ***"Advanced emergency medical technician" or "AEMT" means a person certified by the board under this chapter as an advanced emergency medical technician;***

(2) ***"Advanced practice paramedic" or "APP" means a paramedic licensed by the board under this chapter as a paramedic and certified by the board under this chapter in at least one (1) emergency medical services subspecialty, including community paramedic, critical care paramedic, wilderness paramedic, tactical paramedic, or flight paramedic;***

(3) "Ambulance" means a vehicle which has been inspected and approved by the board, including a helicopter or fixed-wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization or continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being;

(4) ~~[(2)]~~ "Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the board to provide medical ~~[transportation]~~services ***that may include transport*** at either basic life support level or advanced life support level and who may have a vehicle or vehicles, including ground vehicles, helicopters, or fixed-wing aircraft to provide such transportation. An ambulance provider may be licensed as ***a Class I, II, III, or IV ground ambulance provider, a Class VI medical first response provider, a Class VII air ambulance provider, or a Class VIII event medicine provider*** ~~[an air ambulance provider, as a Class I ground ambulance provider, as a Class II ground ambulance provider, or as a Class III ground ambulance provider]~~;

(5) ~~[(3)]~~ "Board" means the Kentucky Board of Emergency Medical Services;

(6) "Community paramedic" or "CP" means an advanced practice paramedic certified under this chapter as a CP;

(7) ~~[(4)]~~ "Emergency medical facility" means a hospital or any other institution licensed by the Cabinet for Health and Family Services that furnishes emergency medical services;

(8) "Emergency medical responder" or "EMR" means a person certified under this chapter as an EMR or EMR instructor;

(9) ~~[(5)]~~ "Emergency medical services" ***or "EMS"*** means the services utilized in providing care for the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury;

(10) "Emergency medical services educator" or "EMS educator" means a person who is certified and licensed by the board under this chapter as a Level I, II, or III EMS educator to provide emergency medical services education and training with the scope of practice established by the board through administrative regulations;

(11) ~~[(6)]~~ "Emergency Medical Services for Children Program" or "EMSC Program" means the program established under this chapter;

(12) "Emergency medical services medical director" means a physician licensed in Kentucky and certified by the board under this chapter who is employed by, under contract to, or has volunteered to provide supervision for a paramedic or an ambulance service, or both;

(13) ~~[(7)]~~ "Emergency medical services personnel" means***:***

(a) Persons~~[, certified or licensed, and]~~ trained to provide emergency medical services ***and certified or licensed by the board under this chapter as an AEMT, APP, EMR, EMR instructor, EMT, EMT instructor, paramedic; or paramedic instructor; and*** ~~[, and an]~~

(b) Authorized emergency medical services medical ***directors and*** ~~[director]~~ ***mobile integrated healthcare program medical directors***, whether on a paid or volunteer basis;

(14) ~~[(8)]~~ "Emergency medical services system" means a coordinated system of health-care delivery that responds to the needs of acutely sick and injured adults and children, and includes community education and prevention programs, ***mobile integrated healthcare programs,*** centralized access and emergency medical dispatch, communications networks, trained emergency medical services personnel, medical first response, ground and air ambulance services, trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures;

(15) ~~[(9)]~~ "Emergency medical services training or educational institution" means any ~~[person or]~~organization ***licensed by the board under this chapter to provide*** ~~[which provides]~~ emergency medical services training or

education or in-service training, other than a licensed ambulance service which provides training, or in-service training in-house for its own employees or volunteers;

(16)~~[(10)]~~ "Emergency medical technician" or "EMT" means a person certified under this chapter as an EMT ***or EMT instructor***~~[basic, EMT-basic instructor, or EMT-instructor trainer]~~;

(17) "Executive director" means the executive director of the Kentucky Board of Emergency Medical Services;

~~[(11) "First responder" means a person certified under this chapter as a first responder or first responder instructor;~~

~~(12) "Emergency medical services medical director" means a physician licensed in Kentucky who is employed by, under contract to, or has volunteered to provide supervision for a paramedic or an ambulance service, or both;]~~

(18) "Mobile integrated healthcare" or "MIH" means a program licensed by the board under this chapter to provide services including evaluation, advice, and medical care for the purpose of preventing or improving a particular medical condition outside of a hospital setting to eligible patients who do not require or request emergency medical transportation;

(19) "Mobile integrated healthcare program medical director" or "MIH program medical director" means a physician licensed in Kentucky and certified by the board under this chapter who is employed by, under contract to, or has volunteered to provide supervision for a licensed MIH program;

(20)~~[(13)]~~ "Paramedic" means a person who is involved in the delivery of medical services and is licensed under this chapter;

~~[(14) "Paramedic course coordinator" means a person certified under this chapter to coordinate a paramedic course. A paramedic course coordinator shall not practice as a paramedic unless they are also licensed as a paramedic;]~~

(21)~~[(15)]~~ "Paramedic preceptor" means a licensed paramedic who supervises a paramedic student during the field portion of the student's training;

(22)~~[(16)]~~ "Prehospital care" means the provision of emergency medical services***, mobile integrated healthcare,*** or transportation by trained and certified or licensed emergency medical services personnel at the scene or while transporting sick or injured persons to a hospital or other emergency medical facility; and

(23)~~[(17)]~~ "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

➔Section 2. KRS 311A.015 is amended to read as follows:

(1) The Kentucky Board of Emergency Medical Services is created and shall be attached to the Kentucky Community and Technical College System.

(2) The board shall consist of ***thirteen (13)***~~[eighteen (18)]~~ members who are residents of Kentucky appointed by the Governor in conjunction with recognized state emergency medical services related organizations. Membership shall be made up of the following:

(a) ~~[One (1) paramedic who works for a government agency but is not serving in an educational, management, or supervisory capacity;~~

~~(b)]~~One (1) emergency medical technician~~[basic]~~ who works for a government agency but is not serving in an educational, management, or supervisory capacity;

~~[(c) One (1) first responder who is not serving in an educational, management, or supervisory capacity;~~

~~(d) One (1) physician licensed in Kentucky having a primary practice in the delivery of emergency medical care selected from a list of three (3) physicians submitted by the Kentucky Medical Association;]~~

(b)~~[(e)]~~ One (1) physician licensed in Kentucky serving as medical director of an advanced life support ambulance service selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

(c)~~[(f)]~~ One (1) physician licensed in Kentucky who ***is*** routinely ~~[is]~~ involved in the emergency care of ill ***or***~~[and]~~ injured children selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

~~[(g) One (1) trauma surgeon licensed in Kentucky selected from a list of three (3) physicians submitted by the Kentucky Medical Association;]~~

(d) ~~[(h)]~~ One (1) citizen having no involvement in the delivery of medical or emergency services;

(e) ~~[(i)]~~ One (1) ***certified*** emergency medical services educator~~[certified by the board;~~

~~(j) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service;~~

~~(k) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service;~~

~~(l) One (1) volunteer staffed, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic~~];

(f) ~~[(m)]~~ One (1) fire-service-based, licensed Class I ground ambulance service administrator who is a certified emergency medical technician***, an advanced emergency medical technician,*** or a licensed paramedic;

(g) ~~[(n)]~~ One (1) licensed air ambulance service administrator or paramedic for a licensed air ambulance service headquartered in Kentucky;

(h) ~~[(o)]~~ One (1) ***privately operated,*** ~~[private]~~ licensed Class 1 ground ambulance service administrator who is a certified emergency medical technician***, an advanced emergency medical technician,*** or a licensed paramedic~~[who is a resident of Kentucky]~~;

(i) ~~[(p)]~~ One (1) hospital administrator selected from a list of ***three (3)*** ~~[five (5)]~~ nominees submitted by the Kentucky Hospital Association;

~~[(q) One (1) basic life support, licensed Class I government operated ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic; and]~~

(j) ~~[(r)]~~ One (1) advanced life support~~[, government operated]~~ ambulance ***provider*** ~~[service administrator]~~who is ***an advanced emergency medical technician*** ~~[a certified emergency medical technician]~~ or a licensed paramedic***, who works for a government agency but is not serving in an educational, management, or supervisory capacity;***

(k) One (1) publicly operated Class I ground ambulance service administrator who is a certified emergency medical technician, an advanced emergency medical technician, or a licensed paramedic;

(l) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service; and

(m) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service.

(3) ***(a) Members shall serve for a term of four (4) years, may be reappointed, and*** ~~[No board member]~~ shall serve ***no*** more than two (2) consecutive terms. A member appointed to a partial term vacancy exceeding two (2) years shall be deemed to have served a full term. A former member may be reappointed following an absence of ***at least*** one (1) term.

(b) Any person serving on the board in a position eliminated on the effective date of this Act, and whose term has not expired prior to the effective date of this Act, may continue to serve in a voting, ex officio capacity until the expiration of his or her term.

(4) The board shall~~[annually]~~:

(a) Meet at least six (6) times a year; ***and***

(b) At the first meeting of the board after September 1 ***of each year***, elect a chair and vice chair by majority vote of the members present~~[;]~~ and~~[~~

~~(c)]~~set a schedule of six (6) regular meetings for the next twelve (12) month period.

(5) The board shall adopt a quorum and rules of procedure by administrative regulation.

(6) (a) A member of the board who misses three (3) regular meetings in ***a twelve (12) month period*** ~~[one (1) year]~~ shall be deemed to have resigned from the board and his or her position shall be deemed vacant.

(b) The failure of a board member to attend a special or emergency meeting shall not result in any penalty.

(c) ~~[The year specified in this subsection shall begin with the first meeting missed and end three hundred sixty-five (365) days later or with the third meeting missed, whichever occurs earlier.~~

~~(d)]~~The Governor shall appoint a person of the same class to fill the vacancy within ninety (90) days.

(d) ~~[(e)]~~ The person removed under this subsection shall not be reappointed to the board for ***at least*** ten (10) years.

(7) Members of the board shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.~~[The board shall meet at least six (6) times each year.]~~

(8) Annual reports and recommendations from the board shall be sent by September 1 each year to the Governor, the president of the Kentucky Community and Technical College System, and the General Assembly.

➔Section 3. KRS 311A.020 is amended to read as follows:

(1) The board shall:

(a) Exercise all of the administrative functions of the state not regulated by the Board of Medical Licensure or Cabinet for Health and Family Services in the regulation of the emergency medical services system and the practice of ***emergency medical services***~~[first responders, emergency medical technicians, paramedics, ambulance services]~~, and emergency medical services training institutions, with the exception of employment of personnel as described in subsections (5) and (6) of this section;

(b) Issue any licenses or certifications authorized by this chapter;

(c) Oversee the operations and establish the organizational structure of the Office of the Kentucky Board of Emergency Medical Services, which is created and shall be attached to the board for administrative purposes. The office shall be headed by the executive director appointed under paragraph (d) of this subsection and shall be responsible for:

1. Personnel and budget matters affecting the board;

2. Fiscal activities of the board, including grant writing and disbursement of funds;

3. Information technology, including the design and maintenance of databases;

4. Certification and recertification of ***emergency medical***~~[first]~~ responders;

5. Certification and recertification of emergency medical technicians ***and advanced emergency medical technicians***;

6. Licensure and relicensure of ambulances***,*** ~~[and]~~ambulance services***, and mobile integrated healthcare programs***;

7. Licensure and relicensure of paramedics;

8. ***Certification and recertification of advanced practice paramedics;***

9. Certification and recertification of ***EMS educators***~~[paramedic course coordinators]~~;

10.~~[9.]~~Investigation of and resolution of quality complaints and ethics issues; and

11.~~[10.]~~ Other responsibilities that may be assigned to the executive director by the board;

(d) Employ an executive director and deputy executive director and fix the compensation. The executive director and deputy executive director shall serve at the pleasure of the board, administer the day-to-day operations of the Office of the Kentucky Board of Emergency Medical Services, and supervise all directives of the board. The director and deputy executive director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration or in the administration of an emergency medical services program;

(e) Employ or contract with a physician licensed in Kentucky who is board certified in emergency medicine and fix the compensation. The physician shall serve at the pleasure of the board and as the medical advisor to the Kentucky Board of Emergency Medical Services and the staff of the board;

(f) Employ or contract with an attorney licensed to practice law in Kentucky and fix the compensation. The attorney shall serve at the pleasure of the board and have primary assignment to the board;

(g) Employ personnel sufficient to carry out the statutory responsibilities of the board.

1. Personnel assigned to investigate ***an emergency medical***~~[a first]~~ responder program complaint or regulate the ***emergency medical***~~[first]~~ responder programs shall be certified ***emergency medical***~~[first]~~ responders, emergency medical technicians, ***advanced emergency medical technicians,*** or licensed paramedics.

2. Personnel assigned to investigate an emergency medical technician program complaint or regulate the emergency medical technician program shall be certified emergency medical technicians***, advanced emergency medical technicians,*** or paramedics.

3. ***Personnel assigned to investigate an advanced emergency medical technician program complaint or regulate the advanced emergency medical technician program shall be certified advanced emergency medical technicians or paramedics.***

4. Personnel assigned to investigate a paramedic program complaint or regulate the paramedic program shall be licensed paramedics.

5.~~[4.]~~ A person who is employed by the board who is licensed or certified by the board shall retain his or her license or certification if he or she meets the in-service training requirements and pays the fees specified by administrative regulation.

6.~~[5.]~~ A person who is employed by the board may instruct in emergency medical subjects in which he or she is qualified, with the permission of the board. All instruction shall be rendered without remuneration other than his or her state salary and the employee shall be considered as on state duty when teaching.

7.~~[6.]~~ A person who is employed by the board may render services for which the person is qualified at a declared disaster or emergency or in a situation where trained personnel are not available until those personnel arrive to take over the patient, or where insufficient trained personnel are available to handle a specific emergency medical incident. All aid shall be rendered without remuneration other than the employee's state salary and the employee shall be considered as on state duty when rendering aid. In cases specified in this paragraph, the state medical advisor shall serve as the emergency medical services medical director for the employee;

(h) Establish committees and subcommittees and the membership thereof. Members of committees and subcommittees do not need to be members of the board;

(i) Enter into contracts, apply for grants and federal funds, and disburse funds to local units of government as approved by the General Assembly. All funds received by the board shall be placed in a trust and agency account in the State Treasury subject to expenditure by the board;

(j) Administer the Emergency Medical Services for Children Program; and

(k) Establish minimum curriculum and standards for emergency medical services training.

(2) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities.

(3) The board may delegate to the executive director, by written order, any function other than promulgation of an administrative regulation specified in this chapter.

(4) Except for securing funding for trauma centers~~[and the implementation of KRS 311A.170]~~, the board shall not serve as the lead agency relating to the development or regulation of trauma systems, but shall be a partner with other state agencies in the development, implementation, and oversight of such systems.

(5) (a) The Kentucky Community and Technical College System shall employ personnel for the work of the board, and the personnel in the positions described in this section and all other persons in administrative and professional positions shall be transferred to the personnel system of the Kentucky Community and Technical College System on July 12, 2006, in the appropriate classification to carry out the mission of the board. All employees transferred under this paragraph shall have all employment records and months of service credit transferred to the Kentucky Community and Technical College System. Employees of the board transferred under this paragraph who subsequently return to state employment under KRS Chapter 18A shall have their employment records and months of service credit under the Kentucky Community and Technical College System transferred back to the KRS Chapter 18A personnel system, and the employment records and months of service credit shall be used in calculations for all benefits under KRS Chapter 18A.

(b) New employees hired or contracted after July 12, 2006, shall be employed or contracted by the Kentucky Community and Technical College System.

(6) The board shall appoint a personnel committee consisting of the chair of the board, one (1) physician member of the board, one (1) ambulance service provider member of the board, one (1) additional member of the board selected by the chair of the board, and one (1) representative of the Kentucky Community and Technical College System administration. The personnel committee shall conduct an annual job performance review of the executive director, the medical advisor, and the board attorney that conforms with the personnel standards of the Kentucky Community and Technical College System and includes a recommendation for or against continued employment to be presented to the personnel office of the Kentucky Community and Technical College System.

(7) All state general fund moneys appropriated to the board, all federal funds, all moneys collected by the board, and all equipment owned by the board shall be transferred to the Kentucky Community and Technical College System on July 1, 2006.

(8) The board shall develop a proposed biennial budget for all administrative and operational functions and duties in conjunction with the Kentucky Community and Technical College System budget submission process. The Kentucky Community and Technical College System shall not make changes to the budget proposal submitted by the board, but may submit written comments on the board's budget proposal to the board and other agencies in the budget submission process.

➔Section 4. KRS 311A.025 is amended to read as follows:

(1) The board shall, subject to the provisions of this chapter, create levels of certification or licensure, as appropriate for individuals providing services under this chapter. These may consist of but not be limited to:

(a) ***Emergency medical services educator, Level I, II, and III***~~[First responder and first responder instructor]~~;

(b) ***Emergency medical responder;***

(c) Emergency medical technician ***and advanced emergency medical technician***~~[basic, emergency medical technician basic instructor, and emergency medical technician basic instructor trainer]~~;

(d)~~[(c)]~~ Paramedic, ***advanced practice*** paramedic~~[course coordinator, paramedic instructor]~~, and paramedic preceptor;

(e)~~[(d)]~~ Emergency medical services medical director who supervises a person or organization licensed or certified by the board;

(f) Mobile integrated healthcare program medical director who supervises a MIH program licensed by the board;

(g)~~[(e)]~~ Emergency medical service training institution;

(h)~~[(f)]~~ Emergency medical service testing agency;

(i)~~[(g)]~~ Ground ambulance service, including categories thereof;

(j)~~[(h)]~~ Air ambulance service;

(k)~~[(i)]~~ Medical first response provider;

(l)~~[(j)]~~ Emergency medical dispatcher, emergency medical dispatch instructor, and emergency medical dispatch instructor trainer;

(m)~~[(k)]~~ Emergency medical dispatch center or public safety answering point; and

(n)~~[(l)]~~ Any other entity authorized by this chapter.

(2) The board shall promulgate administrative regulations for any certification or license the board may create. The administrative regulations shall, at a minimum, address:

(a) Requirements for students, if appropriate;

(b) Requirements for training;

(c) Eligibility for certification or licensure; and

(d) Renewal, recertification, and relicensure requirements.

(3) The board may authorize a physician licensed to practice in Kentucky to serve as an emergency medical services medical director if that physician meets the requirements specified by the board by administrative regulation.

➔Section 5. KRS 311A.030 is amended to read as follows:

The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the functions of this chapter, including but not limited to:

(1) Licensing, inspecting, and regulating of ambulance services***, mobile integrated healthcare programs,*** and medical first-response providers. The administrative regulations shall address specific requirements for:

(a) ~~[Air ambulance providers, which provide basic or advanced life support services;~~

~~(b)]~~Class I ground ambulance providers, which provide basic life support or advanced life support services to all patients for emergencies or scheduled ambulance transportation which is medically necessary;

(b)~~[(c)]~~ Class II ground ambulance providers, which provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary;

(c)~~[(d)]~~ Class III ground ambulance providers, which provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care;~~[and]~~

(d) Class IV ground ambulance providers, which provide basic life support or advanced life support services and transportation for restricted locations such as industrial sites and other sites that do not provide services outside a designated site;

(e) ***Class V mobile integrated healthcare programs, which do not transport patients as a function of the program and which must be operated by or in affiliation with a Class I ambulance provider that provides emergency medical response in the geographic area***~~[Medical first-response providers, which provide prehospital or advanced life support services, but do not transport patients]~~;

(f) Class VI medical first response providers, which provide basic or advanced life support services, but do not transport patients;

(g) Class VII air ambulance providers, which provide basic or advanced life support services; and

(h) Class VIII event medicine providers, which provide basic or advanced life support services, but do not transport patients; and

(2) ***Licensing, inspecting, and regulating of*** emergency medical services training institutions.

Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.

➔Section 6. KRS 311A.040 is amended to read as follows:

(1) The board may, on petition by an interested party, issue an advisory opinion relating to the applicability to any person, property, or state of facts of a statute in this chapter, administrative regulation promulgated by the board, decision, order, or other written statement of law or policy within the jurisdiction of the board.

(2) An advisory opinion shall be binding on the board and all parties to the proceeding on the statement of facts alleged.

(3) The board may not retroactively change an advisory opinion, but nothing in this section shall prevent the board from prospectively changing an advisory opinion.

(4) The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A on procedures for submission, consideration, reconsideration, and disposition of a petition for an advisory opinion.

(5) An advisory opinion of the board may be appealed to the ***Franklin*** Circuit Court ~~[of the county in which the board's offices are located]~~within thirty (30) days of the date of the advisory opinion by the board.

(6) Each advisory opinion shall be a public record and shall be published in the manner specified by the board.

(7) When the board supersedes, vacates, modifies, or repeals a previous advisory opinion the new opinion shall specify each previous opinion affected.

➔Section 7. KRS 311A.050 is amended to read as follows:

(1) No person shall:

(a) Call or hold himself or herself out as or use the title of emergency medical technician, ***advanced emergency medical technician, emergency medical***~~[first]~~ responder, paramedic, ***advanced practice paramedic, emergency medical services educator,***~~[first responder instructor or instructor trainer, emergency medical technician instructor or instructor trainer, or paramedic instructor, paramedic instructor trainer, or]~~ paramedic course coordinator***, emergency medical services medical director, mobile integrated healthcare program medical director, or any other member of emergency medical services personnel*** unless licensed or certified under the provisions of this chapter. The provisions of this ***paragraph***~~[subsection]~~ shall not apply if the board does not license or certify a person as an instructor~~[, instructor trainer, or course coordinator]~~ in a particular discipline regulated by the board;

(b) Operate or offer to operate or represent or advertise the operation of a school or other educational program for ***emergency medical services personnel***~~[first responders, emergency medical technicians, paramedics, or instructors or instructor trainers for first responders, emergency medical technicians, or paramedics]~~ unless the school or educational program has been approved ***and licensed*** under the provisions of this chapter. The provisions of this paragraph shall not apply to continuing education provided by a licensed ambulance service for anyone certified or licensed by the board given by an ambulance service for its employees or volunteers; or

(c) Knowingly employ ***emergency medical services personnel***~~[a first responder, emergency medical technician, paramedic, or an instructor or instructor trainer for first responders, emergency medical technicians, or paramedics, or paramedic course coordinator]~~ unless that person is licensed or certified under the provisions of this chapter.

(2) No person licensed or certified by the board or who is an applicant for licensure or certification by the board shall:

(a) If licensed or certified, violate any provision of this chapter or any administrative regulation promulgated by the board;

(b) Use fraud or deceit in obtaining or attempting to obtain a license or certification from the board, or be granted a license upon mistake of a material fact;

(c) If licensed or certified by the board, grossly negligently or willfully act in a manner inconsistent with the practice of the discipline for which the person is certified or licensed;

(d) Be unfit or incompetent to practice a discipline regulated by the board by reason of negligence or other causes;

(e) Abuse, misuse, or misappropriate any drugs placed in the custody of the licensee or certified person for administration, or for use of others;

(f) Falsify or fail to make essential entries on essential records;

(g) Be convicted of a misdemeanor which involved acts that bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which the person is an applicant, licensee, or certified person, if in accordance with KRS Chapter 335B;

(h) Be convicted of a misdemeanor which involved fraud, deceit, breach of trust, or physical harm or endangerment to self or others, acts that bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice acts in the license or certification held or sought, if in accordance with KRS Chapter 335B;

(i) Be convicted of a misdemeanor offense under KRS Chapter 510 involving a patient or be found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the licensee or certificate holder;

(j) Have had his or her license or credential to practice as a nurse or physician denied, limited, suspended, probated, revoked, or otherwise disciplined in Kentucky or in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

(k) Have a license or certification to practice in any activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to

cause a license or certification to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

(l) Violate any lawful order or directive previously entered by the board;

(m) Have been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or

(n) Be convicted of, have entered a guilty plea to, ***or*** have entered an Alford plea to a felony offense,~~[or completed a diversion program for a felony offense,]~~ if in accordance with KRS Chapter 335B.

(3) It shall be unlawful for an employer of a person licensed or certified by the board having knowledge of the facts to refrain from reporting to the board ***on an official complaint form approved by the board through administrative regulation*** any person licensed or certified by the board who:

(a) Has been convicted of, has entered a guilty plea to, ***or*** has entered an Alford plea to a felony offense~~[, or has completed a diversion program for a felony offense]~~;

(b) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which they are an applicant, licensee, or certified person;

(c) Is reasonably suspected of fraud or deceit in procuring or attempting to procure a license or certification from the board;

(d) Is reasonably suspected of grossly negligently or willfully acting in a manner inconsistent with the practice of the discipline for which they are certified or licensed;

(e) Is reasonably suspected of being unfit or incompetent to practice a discipline regulated by the board by reason of negligence or other causes, including but not limited to being unable to practice the discipline for which they are licensed or certified with reasonable skill or safety;

(f) Is reasonably suspected of violating any provisions of this chapter or the administrative regulations promulgated under this chapter;

(g) Has a license or certification to practice an activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or certification to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

(h) Is practicing an activity regulated by the board without a current active license or certification issued by the board;

(i) Is reasonably suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the licensee or certified person for administration or for use of others; or

(j) Is suspected of falsifying or in a grossly negligent manner making incorrect entries or failing to make essential entries on essential records.

(4) A person who violates subsection (1)(a), (b), or (c) of this section shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for each subsequent offense.

(5) The provisions of this section shall not preclude prosecution for the unlawful practice of medicine, nursing, or other practice certified or licensed by an agency of the Commonwealth.

(6) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the office of the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.

(7) The institution or imposition of disciplinary action by the office of the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 8. KRS 311A.055 is amended to read as follows:

(1) In accordance with the provisions of KRS Chapter 13B, all discipline for which the board is authorized to conduct investigations, hold hearings, and impose punishments is delegated to the executive director, state medical advisor, board attorney, and hearing panels as provided herein.

(2) Any person may make a complaint to the executive director that an entity licensed or certified by the board, ***emergency medical services personnel,*** ~~[first responder, emergency medical technician, paramedic, emergency medical services medical advisor]~~ or ***any*** other person licensed or certified by the board has violated a provision of this chapter, an administrative regulation promulgated pursuant to this chapter, protocol, practice standard, or order of the board.

(3) Each complaint shall:

(a) Be in writing;

(b) Identify specifically the person or organization against whom the complaint is made;

(c) Set forth the facts relating to the violation alleged and any other supporting information which may have a bearing on the matter;

(d) Contain the name, address, telephone number, facsimile number, and e-mail address, if available, of the complainant;

(e) Be subscribed and sworn to as to the truth of the statements contained in the complaint by the complainant; and

(f) Be notarized.

(4) A complaint which is unsigned shall not be acted upon by the executive director. A complaint which is not subscribed and sworn in the manner specified in subsection (3) of this section shall be returned to the complainant for completion.

(5) The executive director of the board may, on behalf of the board, based on knowledge available to the office of the board, make a complaint against any person or organization regulated by the board in the same manner as provided in subsection (3) of this section.

(6) Upon receipt of a properly completed complaint, the executive director shall assign the complaint to a staff investigator who shall investigate the complaint and shall make findings of fact and recommendations to the executive director who shall then convene a preliminary inquiry board.

(7) When the executive director assigns a complaint to a staff investigator, he or she shall notify the person or organization against whom the complaint has been filed***, the employer of the emergency services personnel against whom the complaint has been filed,*** ~~[and shall notify the employer of a first responder, emergency medical technician, or paramedic and]~~ the emergency medical services medical director ***or mobile integrated healthcare program medical director*** for the organization~~[and for any paramedic]~~ against whom the complaint ***has been*** ~~[is]~~ filed ***or that employs the emergency medical services personnel against whom the complaint has been filed,*** and any other person or organization specified in this chapter.

(8) The notification shall name the person or organization complained against, the complainant, the violations alleged, and the facts presented in the complaint and shall notify the person or organization complained against, the employer, and the emergency medical services medical director of:

(a) The fact that the complaint shall be answered, the steps for answering the complaint, and the action to be taken if the complaint is not answered;

(b) The time frame and steps in the proceedings of a complaint;

(c) The rights of the parties, including the right to counsel; and

(d) The right to testify at any hearing.

(9) Upon the failure of a license or certificate holder to respond to a written accusation or to request a hearing within twenty (20) days after the sending of the accusation, the accused shall be considered to have admitted the truth of the facts and the circumstances in the allegation and appropriate discipline may be imposed.

(10) The preliminary inquiry board shall consist of one (1) member of the board selected by the chair, and two (2) persons representing the same category of certification or licensure as the defendant who are not members of the board appointed by the chairman of the board.

(11) After reviewing the complaint and results of any investigation conducted on behalf of the board, the preliminary inquiry board shall consider whether the accusation is sufficient to remand the matter for a hearing as provided in this section and KRS Chapter 13B. A majority vote of the members of the preliminary inquiry board shall be necessary for action to either remand the matter for hearing or dismiss the complaint without hearing.

(12) If the preliminary inquiry board dismisses the complaint, all parties notified previously shall be notified of the action. If the preliminary inquiry board remands the matter for a hearing, all parties notified previously shall be notified of the action.

(13) Each proceeding to consider the imposition of a penalty which the board is authorized to impose pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B.

(14) A hearing panel for purposes of making a decision in any disciplinary matter shall consist of one (1) physician who may be a member of the board or who meets the qualifications of an emergency medical services medical director; one (1) person from the category of persons or organizations of the same class as the defendant; and the hearing officer, who shall not be involved in emergency medical services.

(15) The hearing officer may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by any Circuit Court for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(16) At all hearings the board attorney or, on request of the board, the Attorney General of this state or one (1) of the assistant attorneys general designated shall appear and represent the board.

(17) The emergency medical services provider or related employer of a person licensed or certified by the board and the emergency medical services medical director of such a person who is the defendant in a hearing shall be parties to the action and may appear and testify in the matter at any deposition or hearing on the matter and may propose conclusions of law, findings of fact, and penalties to the hearing panel.

(18) To make a finding or recommend discipline, the two (2) members of the hearing panel who are not the hearing officer shall agree on the finding or discipline. In the event of a tie vote, the hearing officer shall cast the deciding vote.

(19) The final order in any disciplinary proceeding shall be prepared by the executive director and sent to all parties in the manner prescribed by law.

(20) Any person or entity aggrieved by a final order of the board may appeal to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

(21) The only discipline that the board may impose against an emergency medical services medical director is denial, suspension or withdrawal of the board's approval for that person to serve as an emergency medical services medical director.

(22) If the executive director substantiates that sexual contact occurred between a licensee or certificate holder and a patient while the patient was under the care of or in a professional relationship with the licensee or certificate holder, the license or certification may be revoked or suspended with mandatory treatment of the person as prescribed by the executive director. The executive director may require the licensee or certificate holder to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

➔Section 9. KRS 311A.060 is amended to read as follows:

(1) If it is determined that an entity ***or a member of emergency medical services personnel*** regulated***, licensed, or certified*** by the board~~[, a paramedic, first responder, or emergency medical technician]~~ has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity ***or a member of emergency medical services personnel*** regulated by the board,~~[a paramedic, first responder, or emergency medical technician,]~~ the office of the board may impose any of the sanctions provided in subsection (2) of this section. Any party to the complaint shall have the right to propose findings of fact and conclusions of law, and to recommend sanctions.

(2) The office of the board shall require an acceptable plan of correction and may use any one (1) or more of the following sanctions when disciplining ***emergency medical services personnel***~~[a paramedic, emergency medical technician first responder, emergency medical technician,]~~ or any entity regulated by the board:

(a) Private reprimand that shall be shared with each of the paramedic's, ***emergency medical***~~[first]~~ responder's, ***advanced emergency medical technician's,*** or emergency medical technician's emergency medical services or related employer and medical director;

(b) Public reprimand;

(c) Fines of fifty dollars ($50) to five hundred dollars ($500) for a natural person or fifty dollars ($50) to five thousand dollars ($5,000) for a public agency or business entity;

(d) Revocation of certification or licensure;

(e) Suspension of ***certification or*** licensure until a time certain;

(f) Suspension until a certain act or acts are performed;

(g) Limitation of practice permanently;

(h) Limitation of practice until a time certain;

(i) Limitation of practice until a certain act or acts are performed;

(j) Repassing a portion of the paramedic, ***emergency medical***~~[first]~~ responder, ***advanced emergency medical technician,*** or emergency medical technician examination;

(k) Probation for a specified time; or

(l) If it is found that the person who is licensed or certified by the board has been convicted of, pled guilty to, ***or*** entered an Alford plea to a felony offense,~~[or has completed a diversion program for a felony offense]~~ the license or certification shall be revoked.

(3) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the office of the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.

(4) The institution or imposition of disciplinary action by the office of the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 10. KRS 311A.065 is amended to read as follows:

(1) If the office of the board has reasonable cause to believe that any licensee or certificate holder or any applicant for licensure or certification by examination, reinstatement, or change of status is unable to practice with reasonable skill or safety or has abused alcohol or drugs, it may require ***the person to submit to a mental health, neuropsychological, psychosocial, psychosexual, substance use disorder, or physical evaluation by a licensed or certified practitioner designated by the board***~~[that person to submit to a mental or physical examination by a physician or psychologist it designates]~~. Upon the failure of the person to submit to a ***mental health, neuropsychological, psychosocial, psychosexual, substance use disorder, or physical evaluation***~~[mental or physical examination]~~, unless due to circumstances beyond the person's control, the office of the board may initiate an action for immediate temporary suspension pursuant to this chapter or deny the application until the person submits to the required ***evaluation***~~[examination]~~. The office of the board may issue an immediate and temporary suspension from the time of the ***evaluation***~~[examination]~~ until the hearing.

(2) Every licensee or certificate holder or applicant for licensure or certification by examination, reinstatement, or change of status shall be deemed to have given consent to submit to ***a mental health, neuropsychological, psychosocial, psychosexual, substance use disorder, or physical evaluation***~~[an examination]~~ when so directed in writing by the board. The direction to submit to an ***evaluation***~~[examination]~~ shall contain the basis of the office of the board's reasonable cause to believe that the person is unable to practice with reasonable skill or safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or ***evaluation***~~[examination]~~ reports on the ground of privileged communication.

(3) The licensee or certificate holder or applicant for licensure or certification by examination, reinstatement, or change of status shall bear the cost of any mental ***health, neuropsychological, psychosocial, psychosexual, substance use disorder, or physical evaluation ordered by the board***~~[or physical examination ordered by the office of the board]~~.

➔Section 11. KRS 311A.075 is amended to read as follows:

(1) The ~~[state medical advisor, one (1) physician board member selected by the chair of the board, and one (1) member of the board of the same category of licensure or certification as the defendant selected by the]~~chair of the board, ***or his or her designee,*** in writing, may determine that immediate temporary suspension of a license or certification of a natural person against ***whom***~~[which]~~ disciplinary action or an investigation is pending is necessary in order to protect the public. If the defendant is employed by an emergency medical services provider, the input of the employer's emergency medical services medical director ***or mobile integrated healthcare program medical director may*** ~~[shall]~~be sought with regard to the matter. In the event of an action against an organization, the determination that an immediate temporary suspension is necessary in order to protect the public shall be made by the ~~[state medical advisor, and two (2) other members of the board who are appointed by the]~~ chair of the board***, or his or her designee, in writing***. When this action may be necessary, the executive director, in writing, shall issue an emergency order suspending the licensee or certificate holder. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.

(2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he or she has previously sat on a ***preliminary inquiry panel hearing of the same licensee or certification holder***~~[hearing panel considering temporary suspension of the same license]~~.

(3) Disciplinary actions in which a license or certification has been temporarily suspended and a hearing shall be held in accordance with KRS 13B.125 within ninety (90) days unless the defendant requests an extension of time.

(4) The order of immediate temporary suspension shall remain in effect until either retracted or superseded by final disciplinary action by the office of the board. In cases where disciplinary action is imposed, the office of the board may additionally order that the temporary suspension continue in effect until the later expiration of time permitted for appeal or termination of the appellate process.

➔Section 12. KRS 311A.095 is amended to read as follows:

(1) A paramedic license, ***emergency medical***~~[first]~~ responder certification, ***advanced emergency medical technician certification,*** or emergency medical technician certification shall***:***

(a) Be valid for a period of two (2) years ***upon renewal; and***~~[.]~~

(b) ~~[(2) Each paramedic license, first responder certification, or emergency medical technician certification shall]~~Expire on December 31 of the second year from its ***initial*** issuance.

(2)~~[(3)]~~ The license or certification of every person issued under the provisions of this chapter shall be renewed at least biennially except as provided in this section. At least six (6) weeks before the renewal date the office of the board shall ***send notification correspondence***~~[mail an application]~~ for renewal to every person for whom a license or certification was issued during the current licensure or certification period. The applicant shall ***complete and submit the application for renewal***~~[fill in the application form and return it to the office of the board]~~ with the renewal fee prescribed by the board in an administrative regulation before the expiration date of his or her current license or certification. Upon receipt of the application and fee, the board shall verify the accuracy of the application to determine whether the licensee or person seeking certification has met all the requirements as set forth in this chapter and in the administrative regulations promulgated by the board, and, if so, shall issue to the applicant a license or certification to practice or engage in the activity for the ensuing licensure or certification period. Such license or certification shall render the holder a legal practitioner of the practice or activity specified in the license or certification for the period stated on it. The board shall prescribe by administrative regulation the beginning and ending of the licensure or certification period.

(3)~~[(4)]~~ Any person who is licensed or certified by the board who allows his or her license or certification to lapse by failing to renew the license or certification as provided in this section may be reinstated by the board~~[on payment of the current fee for original licensure or certification and]~~ by meeting the requirements of administrative regulations promulgated by the board.

(4)~~[(5)]~~ ***Correspondence regarding renewal of a license or certification shall be sent to the electronic mail address provided by the individual certified or licensed by the board***~~[An application for renewal of a license or certification shall be sent to the last known address of each licensee or certified person]~~.

(5)~~[(6)]~~ Any person ***engaging in***~~[practicing]~~ any practice or activity regulated by the board during the time his or her license or certification has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter.

(6)~~[(7)]~~ Failure to receive ***correspondence***~~[the application]~~ for renewal of a license or certification shall not relieve a paramedic, ***emergency medical***~~[first]~~ responder, ***advanced emergency medical technician,*** or emergency medical technician from the duty to renew his or her license or certification prior to December 31 of the year in which the license or certification expires.

(7)~~[(8)]~~ The duration of any license or certification issued by the board may be limited by disciplinary action of the board.

(8)~~[(9)]~~ Every license or certification issued by the board shall have the seal of the board affixed. A holder of a license or certification shall retain it in his or her possession and be prepared to exhibit it upon demand by an employer or anyone to whom the holder of the license or certification offers emergency medical services or any board or staff member of the Kentucky Board of Emergency Medical Services.

(9)~~[(10)]~~ Failure or refusal to produce a license or certification upon demand shall be prima facie evidence that no such license or certification exists.

~~[(11) In order to assure a proper transition during the implementation of the provisions of this section, the board may, for a period of three (3) years, extend a license or certification of any person in order to utilize the expiration date provided for in this section. The board shall, in writing, notify each person whose license or certification is extended of the extension and the new date of expiration. The extension shall be without charge.]~~

➔Section 13. KRS 311A.105 is amended to read as follows:

Any person as defined in KRS 446.010 licensed or certified by the board shall maintain a current mailing ***and electronic mailing*** address with the office of the board and immediately notify the board in writing of a change of mailing ***or electronic mailing*** address. As a condition of holding a license or certification from the board, a licensee or certificate holder is deemed to have consented to service of notice or orders of the board at the mailing address on file with the office of the board, and any notice or order of the board mailed or delivered to the mailing address on file with the board constitutes valid service of the notice or order.

➔Section 14. KRS 311A.120 is amended to read as follows:

(1) As a condition of being issued a certificate or license as an emergency medical technician***, advanced emergency medical technician, emergency medical responder, or paramedic***~~[or first responder]~~, the applicant shall have completed a Kentucky Board of Emergency Medical Services approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

(2) The board shall require continuing education for emergency medical technicians***, advanced emergency medical technicians, emergency medical responders, or paramedics***~~[or first responders]~~ that includes the completion of one and one-half (1.5) hours of board approved continuing education covering the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020, at least one (1) time every five (5) years. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.

➔Section 15. KRS 311A.125 is amended to read as follows:

(1) For each licensure renewal of a paramedic following the issuance of an initial license or certification by the board, as a prerequisite for license or certification renewal, all individuals licensed under the provisions of this chapter shall be required to document continuing competence during the immediate past licensure or certification period as prescribed in administrative regulations promulgated by the board.

(2) ~~[The compliance with continuing competency requirement shall be documented by the emergency medical services medical director and reported as set forth by the board in administrative regulations promulgated in accordance with KRS Chapter 13A.~~

~~(3)]~~The board shall approve providers of emergency medical services education and continuing education. The approval may include recognition of providers approved by national organizations and state boards of emergency medical services with comparable standards. Standards for these approvals shall be set forth by the board in administrative regulations promulgated in accordance with KRS Chapter 13A. The board need not approve continuing education training provided by a licensed ambulance service for anyone certified or licensed by the board.

(3)~~[(4)]~~ The board shall work cooperatively with professional emergency medical services organizations, approved schools, and other potential sources of continuing education programs to ensure that adequate

continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

➔Section 16. KRS 311A.130 is amended to read as follows:

(1) The conduct of proper in-service training, including but not limited to in-house in-service training, in accordance with the standards specified by this chapter, administrative regulations, and the standards of relevant United States Department of Transportation curricula shall be that of the provider of the in-service training.

(2) If in-service training is conducted by an ambulance service, emergency medical services provider, or educational institution, the organization, the instructor, and its medical director share responsibility for the provision of training which meets or exceeds the requirements of subsection (1) of this section.

(3) Persons and organizations providing in-service training for ***any emergency medical services personnel***~~[first responders, emergency medical technicians, or paramedics]~~ shall keep the records required by the board by administrative regulation and shall make them available to a representative of the board upon request.

(4) Failure to keep a record required by the board by administrative regulation or required to be kept by statute, falsifying a record, or grossly negligently maintaining a record required to be kept by administrative regulation or statute shall be subject to action by the office of the board.

(5) Providing in-service training not meeting or exceeding the requirements specified in subsections (1) and (2) of this section shall be subject to action of the office of the board.

(6) Penalties specified in this section shall be in addition to any action which the board may be permitted to take against the license or certification of any person or organization.

(7) The board may refuse to recognize any in-service training not conducted in accordance with the provisions of this chapter, United States Department of Transportation curricula, or administrative regulations promulgated pursuant to this chapter. If the board determines that in-service training will not be accepted, the denial of credit shall be extended to all persons who completed that specific in-service training.

➔Section 17. KRS 311A.140 is amended to read as follows:

(1) The board shall promulgate administrative regulations relating to emergency medical technicians. The administrative regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance or renewal of certificates; hearing of appeals; and other administrative regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services. No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.

(2) Recertification programs shall be organized to include continuing education and in-service training approved by the board.

(3) ***An applicant for initial certification as an emergency medical responder, emergency medical technician, or advanced emergency medical technician, or licensure as a paramedic shall***~~[Beginning July 14, 2000, a new emergency medical technician shall, for initial certification,]~~ be certified using the requirements and testing established by the National Registry of Emergency Medical Technicians or other agent chosen by the board.

(4) ***An applicant for certification renewal as an emergency medical responder, emergency medical technician, or advanced emergency medical technician, or renewal of licensure as a paramedic, shall meet the educational requirements for renewal of the appropriate certification or licensure credential as required by administrative regulations promulgated by the board or***~~[Beginning July 14, 2000, a certified emergency medical technician who seeks recertification shall obtain recertification under the requirements established and maintained by the board. These requirements shall contain a minimum of sixteen (16) hours of required topics and eight (8) hours of elective topics over a two (2) year recertification period. The board shall also recertify any emergency medical technician who chooses to obtain recertification under]~~ the requirements established by the National Registry of Emergency Medical Technicians or other agent chosen by the board in lieu of the standards established by the board.

(5) Except as provided in KRS 311A.060, the board shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical

Technicians or other agent chosen by the board for certification or recertification as an emergency medical technician.

(6) Any person licensed by the board as a paramedic shall be certified as an emergency medical technician by the board. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that the paramedic license is issued or expires, and if a paramedic voluntarily gives up his or her license prior to the expiration of his or her paramedic license, his or her emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to be relicensed as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic license, complete the requirements for recertification as an emergency medical technician utilizing one (1) of the methods provided for in this section.

(7) A paramedic whose license as a paramedic or certification as an emergency medical technician is suspended, revoked, or denied by the board shall have the same action taken automatically with regard to his emergency medical technician certification or paramedic license.

➔Section 18. KRS 311A.170 is amended to read as follows:

(1) Subject to the provisions of this section, a paramedic may perform any procedure:

(a) Specified in the most recent curriculum of the United States Department of Transportation training course for paramedics; and

(b) Any additional procedure specified by the board by administrative regulation.

(2) When there is a change in the United States Department of Transportation curriculum for paramedics, or the board approves an additional skill or procedure by administrative regulation, or approves a protocol differing from the curriculum or administrative regulations, no person who was not trained under that curriculum or administrative regulation shall perform any activity or procedure in the new curriculum, administrative regulation, or protocol unless the person has been trained according to the new curriculum, administrative regulation, or protocol and demonstrates competency in the new knowledge or skill. Competency in a new skill shall be demonstrated through a return demonstration to a competent evaluator. If the board adopts the new procedure or skill, the board shall promulgate an administrative regulation specifying the new procedure, training requirements, examination requirements, and a time period during which the paramedic shall successfully complete the material or lose his or her license as a paramedic.

(3) ***The board shall promulgate administrative regulations in accordance with KRS Chapter 13A establishing the educational requirements, testing requirements, credentialing, and licensure requirements of advanced practice paramedics. Advanced practice paramedics shall validate competency as prescribed in administrative regulations and be identified as one (1) or more of the following certification levels of advanced practice paramedic:***

(a) Certified community paramedic;

(b) Certified critical care paramedic;

(c) Certified flight paramedic;

(d) Certified tactical paramedic; or

(e) Certified wilderness paramedic.

(4) A paramedic may draw blood samples from a criminal defendant upon the request of a peace officer and the consent of the defendant, or without the consent of the defendant upon receipt of a court order requiring the procedure, if the paramedic is authorized to do so by his or her employer. The authorization shall be in writing and may be by general written policy of the employer and the service's medical director. The paramedic who drew the blood sample shall deliver the sample to the peace officer or other person specified by the court in a court order and shall testify in court with regard thereto upon service of a proper subpoena.

(5) ~~[(4)]~~ A paramedic shall be permitted to render services only under the supervision of ***a certified*** ~~[an]~~ emergency medical services medical director***, certified mobile integrated healthcare program medical director, or under the direct supervision of an emergency department medical director***.

(6) A paramedic holding board certification as a community paramedic may provide mobile integrated healthcare services only as an employee of a mobile integrated healthcare program holding a Class V Mobile Integrated Healthcare license in affiliation with a Class I ground ambulance provider.

(7)~~[(5)]~~ Any provision of this chapter other than this section relating to the requirement for additional training, requirement for skill examination, or approval of standing orders, protocols, or medical procedures to the contrary notwithstanding, a paramedic may be employed by a hospital to work as a licensed paramedic in the emergency department of the hospital subject to the following conditions:

(a) The hospital in collaboration with the medical staff shall provide operating procedures and policies under which the paramedic shall operate consistent with the paramedic's scope of practice;

(b) A paramedic shall provide patient care services under the orders of a physician, physician assistant, advanced practice registered nurse, or as delegated by a registered nurse;

(c) Subject to the provisions relating to the scope of practice of a paramedic, a hospital may require a paramedic to take additional training on any subject or skill which the paramedic may be required to perform in a hospital and demonstrate competency in the skill or subject to a competent evaluator; and

(d) The paramedic does not violate the provisions of KRS 311A.175 or any other statute or administrative regulation relating to a paramedic.

No provision of this section shall prevent a paramedic from being employed in any other section of the hospital where the paramedic's job duties do not require certification or licensure by the board and do not otherwise constitute the unlawful practice of medicine.

(8)~~[(6)]~~ Except as provided in subsection (2) of this section, nothing in this section shall prevent an employer from exercising reasonable fiscal control over the costs of providing medical services to its citizens nor prevent the employer from exercising any reasonable control over paramedics providing care on behalf of the licensed entity.

➔Section 19. KRS 311A.175 is amended to read as follows:

(1) No ***certified emergency medical***~~[first]~~ responder shall perform any act or procedure which exceeds the scope of practice of ***an emergency medical***~~[a first]~~ responder as specified in this chapter and in administrative regulations promulgated by the board.

(2) No emergency medical technician shall perform any act or procedure which exceeds the scope of practice of an emergency medical technician as specified in this chapter and in administrative regulations promulgated by the board.

(3) ***No advanced emergency medical technician shall perform any act or procedure which exceeds the scope of practice of an advanced emergency medical technician as specified in this chapter and in administrative regulations promulgated by the board.***

(4) No paramedic shall perform any act or procedure which exceeds the scope of practice of a paramedic as specified in this chapter, administrative regulations promulgated by the board, protocol, standing order, or other document approved by the board.

(5)~~[(4)]~~ A ***certified emergency***~~[first]~~ responder, emergency medical technician, ***advanced emergency medical technician,*** or ***licensed*** paramedic is presumed to know the standards of practice for his or her level of certification or licensure.

(6)~~[(5)]~~ It is the legal duty of ***an emergency medical***~~[a first]~~ responder, emergency medical technician, ***advanced emergency medical technician,*** or paramedic to refuse to perform any act or procedure which is beyond ***the***~~[his or her]~~ scope of practice ***for his or her level of certification or licensure*** regardless of whether that act or procedure is ordered by a physician, physician assistant, medical director, advanced practice registered nurse, registered nurse, or supervisor.

(7)~~[(6)]~~ No employer or organization for which ***an emergency medical***~~[a first]~~ responder, emergency medical technician, ***advanced emergency medical technician,*** or paramedic has volunteered shall reprimand, discipline, or dismiss ***an emergency medical***~~[a first]~~ responder, emergency medical technician, ***advanced emergency medical technician,*** or paramedic who has refused to perform an act or procedure which the ***emergency medical***~~[first]~~ responder, emergency medical technician, ***advanced emergency medical technician,*** or paramedic knows is in violation of the provisions of this section. Violation of this section by an employer or by an organization for which ***an emergency medical responder, emergency medical technician, advanced emergency medical technician, or paramedic***~~[a first responder]~~ has volunteered shall be grounds for a legal action for wrongful discipline or wrongful discharge, as appropriate.

(8)~~[(7)]~~ The provisions of this section shall not apply to an order to perform an act or procedure:

(a) For which a license or certification by the board is not required and which otherwise do not constitute the unlawful practice of medicine; or

(b) For which no license or certification is required and does not involve medical care or treatment; or

(c) For which a license or certification issued by an agency other than the board is required and the ***emergency medical*** ~~[first]~~ responder, emergency medical technician, ***advanced emergency medical technician,*** or paramedic holds such a license or certification.

➔Section 20. KRS 311A.190 is amended to read as follows:

(1) Each licensed ambulance provider***, mobile integrated healthcare program,*** and medical first response provider as defined in this chapter shall collect and provide to the board ***patient care record*** ~~[run]~~ data and information required by the board by this chapter and administrative regulation.

(2) The board shall develop a ***patient care record*** ~~[run report]~~ form for the use of each class of ambulance provider***, mobile integrated healthcare program,*** and medical first response provider containing the data required in subsection (1) of this section. An ambulance provider***, mobile integrated healthcare program,*** or medical first response provider may utilize any ***patient care record*** ~~[run]~~ form it chooses in lieu of or in addition to the board developed ***patient care record*** ~~[run report]~~ form. However, the data captured on the ***patient care record*** ~~[run report]~~ form ***utilized by the ambulance service provider, mobile integrated healthcare program, or medical first response provider*** shall include at least that ***data which is*** required by the administrative regulations promulgated pursuant to subsection (1) of this section.

(3) An ambulance provider***, mobile integrated healthcare program,*** or medical first response provider shall report the required ***patient care record*** ~~[run report]~~ data ***as prescribed through administrative regulations promulgated by the board*** ~~[and information by completing an annual report as established by the board or]~~ by transmitting the required data and information to the board in an electronic format. If the board requires the use of a specific electronic format, it shall provide a copy of the file layout requirements, in either written or electronic format, to the licensed ambulance provider or medical first response provider at no charge.

(4) The board may publish a comprehensive annual report reflecting the data collected, injury and illness data, treatment utilized, and other information deemed important by the board. The annual report shall not include patient identifying information or any other information identifying a natural person. A copy of the comprehensive annual report, if issued, shall be forwarded to the Governor and the General Assembly.

(5) Ambulance provider***, mobile integrated healthcare program*** and medical first response provider ***patient care records*** ~~[run report forms]~~ and the information transmitted electronically to the board shall be confidential. No person shall make an unauthorized release of information on an ambulance ***provider, mobile integrated healthcare program, or medical first response provider patient care record*** ~~[run report form or medical first response run report form]~~. Only the patient or the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient's ***care record*** ~~[run report form]~~ or the inspection or copying of the ***patient care record*** ~~[run report form]~~. Any authorization for the release of information or for inspection or copying of a ***patient care record*** ~~[run report form]~~ shall be in writing.

(6) ***An ambulance provider or medical first response provider that collects patient data through electronic means shall have the means of providing a patient care record or summary report*** ~~[If a medical first response provider or ambulance provider does not use a paper form but collects patient data through electronic means, it shall have the means of providing a written run report]~~ that includes all required data elements to the medical care facility. A copy of the medical first response ***patient care record or summary report of the patient care record*** ~~[form or a summary of the run data]~~ and patient information shall be made available to the ambulance service that transports the patient. A copy of the ambulance run report form shall be made available to any medical care facility to which a patient is transported and shall be included in the patient's medical record by that facility. If a patient is not transported to a medical facility, the copy of the ***patient care record*** ~~[run report form]~~ that is to be given to the transporting ambulance provider or medical care facility shall be given to the patient or to the patient's parent or legal guardian ***upon request***. If the ambulance provider, medical facility, patient, or patient's legal guardian refuses delivery of their ***patient care record*** ~~[run report form]~~ or is unavailable to receive the form, that copy of the ***patient care record*** ~~[form]~~ shall be returned to the medical first response provider or ambulance provider and destroyed.

(7) All ambulance services ***and mobile integrated healthcare programs*** shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

(a) Employee records, including a resume of each employee's training and experience and evidence of current certification ***or licensure***; and

(b) Health records of all ***personnel*** ~~[drivers and attendants]~~ including records of all illnesses or accidents occurring while on duty.

(8) Data and records generated and kept by the board or its contractors regarding the evaluation of emergency medical care***, mobile integrated healthcare programs,*** and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first-response providers, and emergency medical facilities, shall be confidential, shall not be subject to disclosure under KRS 61.805 to 61.850 or KRS 61.870 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery. However, nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment that otherwise would be admissible or discoverable.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO READ AS FOLLOWS:

(1) An advanced emergency medical technician may, subject to the provisions of this section, perform:

(a) Any procedure specified in the most recent curriculum of the United States Department of Transportation training course for advanced emergency medical technicians; and

(b) Any additional procedure authorized by the board by administrative regulation.

(2) When there is a change in the United States Department of Transportation curriculum for advanced emergency medical technicians or the board approves an additional skill or procedure by administrative regulation, no person who was not trained under that curriculum or administrative regulation shall perform any activity or procedure in the new curriculum or administrative regulation unless the person has been trained according to the new curriculum or administrative regulation and demonstrates competency in the new knowledge or skill. If the board adopts the new procedure or skill, the board shall promulgate an administrative regulation specifying the new procedure, training requirements, examination requirements, and a time period during which the advanced emergency medical technician shall successfully complete the new material or lose his or her certification as an advanced emergency medical technician.

(3) Except as provided in subsection (2) of this section, nothing in this section shall prevent an employer from exercising reasonable fiscal control over the costs of providing emergency medical services to its citizens nor prevent the employer from exercising any reasonable control over advanced emergency medical technicians providing emergency medical care upon behalf of the licensed entity or other provider.

(4) Nothing in this section shall be construed to permit utilization of a certified advanced emergency medical technician for the purpose of the individual working with primary responsibility and duties limited to hospitals, physician's offices, clinics, or other definitive care facilities, except as an advanced emergency medical technician student.

➔Section 22. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health and Family Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Health and Family Services for hepatitis B inoculations.

(2) (a) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273.

(b) The commission shall allot eight thousand two hundred fifty dollars ($8,250), and beginning on July 1, 2018, the commission shall allot eleven thousand dollars ($11,000) annually to each qualifying department.

(c) Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment.

(d) If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560.

(e) Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and any other matters or standards that will best effect the purposes of the volunteer fire department aid law. A qualifying department shall:

1. Include at least twelve (12) firefighters;

2. Have a chief;

3. Have at least one (1) operational fire apparatus or one (1) on order; and

4. Have at least fifty percent (50%) of its firefighters who have completed at least one-half (1/2) of one hundred fifty (150) training hours, or as otherwise established by the commission under KRS 95A.240(6), toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours, or as otherwise established by the commission by KRS 95A.240(6), within the second year.

These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations.

(f) No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made.

(g) A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as provided in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including but not limited to the expenses and costs of

commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

(15) For fiscal year 2004-2005 and each fiscal year thereafter, there is allotted one million dollars ($1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.

(16) If funding is available from the fund established in KRS 95A.220, the Commission on Fire Protection Personnel Standards and Education may implement the following:

(a) A program to prepare emergency service personnel for handling potential man-made and non-man-made threats. The commission shall work in conjunction with the state fire marshal and other appropriate agencies and associations to identify and make maps of gas transmission and hazardous liquids pipelines in the state;

(b) A program to provide and maintain a mobile test facility in each training region established by the Commission on Fire Protection Personnel Standards and Education with equipment to administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a firefighter's ability to perform the physical requirements necessary to be an effective and safe firefighter;

(c) A program to provide defensive driving training tactics to firefighters. The commission shall purchase, instruct in the use of, and maintain mobile equipment in each of the training regions, and fund expenses related to equipment replacement;

(d) A program to annually evaluate equipment adequacy and to provide for annual physical examinations for instructors, adequate protective clothing and personal equipment to meet NFPA guidelines, and to establish procedures for replacing this equipment as needed;

(e) A program to establish a rotational expansion and replacement program for mobile fleet equipment currently used for training and recertification of fire departments;

(f) A program to expand and update current ***emergency medical services***~~[EMS]~~, ***emergency medical***~~[first]~~ responder, ***emergency medical technician***~~[EMT]~~, ***advanced emergency medical technician,*** and paramedic training and certification instruction; and

(g) A program to purchase thermal vision devices to comply with the provisions of KRS 95A.400 to 95A.440.

➔Section 23. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by:

(a) The Department of Kentucky State Police;

(b) A public police department;

(c) The Department of Corrections;

(d) A sheriff's office;

(e) A rescue squad;

(f) An emergency management agency if it is a publicly owned vehicle;

(g) An ambulance service***, mobile integrated healthcare program,*** or medical first ~~[-]~~response provider licensed by the Kentucky Board of Emergency Medical Services, for any vehicle used to respond to emergencies or to transport a patient with a critical medical condition;

(h) Any vehicle commandeered by a police officer;

(i) Any vehicle with the emergency lights required under KRS 189.920 used by a paid or volunteer fireman or paid or volunteer ambulance personnel, or a paid or local emergency management director while responding to an emergency or to a location where an emergency vehicle is on emergency call;

(j) An elected coroner granted permission to equip a publicly or privately owned motor vehicle with lights and siren pursuant to KRS 189.920; or

(k) A deputy coroner granted permission to equip a publicly or privately owned motor vehicle with lights and siren pursuant to KRS 189.920.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

➔Section 24. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the practice of genetic counseling as defined in KRS 311.690, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, ***emergency medical*** ~~[first]~~ responders, ***advanced emergency medical technicians,*** or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health and Family Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;

(18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;

(19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);

(20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;

(21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;

(22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;

(23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;

(24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;

(25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;

(26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;

(27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;

(28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; and

(29) "Special faculty license" means a license to practice medicine that is limited to the extent that this practice is incidental to a necessary part of the practitioner's academic appointment at an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility.

➔Section 25. The following KRS sections are repealed:

311A.110 Educational course on AIDS for paramedics, first responders, and emergency medical technicians.

311A.115 Educational course on AIDS for paramedics.

311A.127 Course for paramedics on recognition and prevention of pediatric abusive head trauma.

Signed by Governor March 26, 2019.

CHAPTER 101

(SB 100)

AN ACT relating to net metering.

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

➔Section 1. KRS 278.465 is amended to read as follows:

As used in KRS 278.465 to 278.468:

(1) "Eligible customer-generator" means a customer of a retail electric supplier who owns and operates an electric generating facility that is located on the customer's premises, for the primary purpose of supplying all or part of the customer's own electricity requirements.

(2) "Eligible electric generating facility" means an electric generating facility that:

(a) Is connected in parallel with the electric distribution system;

(b) Generates electricity using:

1. Solar energy;

2. Wind energy;

3. Biomass or biogas energy; or

4. Hydro energy; and

(c) Has a rated capacity of not greater than ***forty-five (45)***~~[thirty (30)]~~ kilowatts.

(3) "Kilowatt hour" means a measure of electricity defined as a unit of work of energy, measured as one (1) kilowatt of power expended for one (1) hour.

(4) "Net metering" means~~[measuring]~~ the difference between the***:***

(a) Dollar value of all~~[electricity supplied by the electric grid and the]~~ electricity generated by an eligible customer-generator that is fed back to the electric grid over a billing period ***and priced as prescribed in Section 2 of this Act; and***

(b) Dollar value of all electricity consumed by the eligible customer-generator over the same billing period and priced using the applicable tariff of the retail electric supplier.

➔Section 2. KRS 278.466 is amended to read as follows:

(1) Each retail electric supplier shall make net metering available to any eligible customer-generator that the supplier currently serves or solicits for service. If the cumulative generating capacity of net metering systems reaches one percent (1%) of a supplier's single hour peak load during ***a calendar***~~[the previous]~~ year, the ***supplier shall have no further*** obligation~~[of the supplier]~~ to offer net metering to ***any***~~[a]~~ new customer-generator ***at any subsequent time***~~[may be limited by the commission]~~.

(2) Each retail electric supplier serving a customer with eligible electric generating facilities shall use a standard kilowatt-hour meter capable of registering the flow of electricity in two (2) directions. Any additional meter, meters, or distribution upgrades needed to monitor the flow in each direction shall be installed at the customer-generator's expense. If additional meters are installed, the net metering calculation shall yield the same result as when a single meter is used.

(3) ***A retail electric supplier serving an eligible customer-generator shall compensate that customer for all electricity produced by the customer's eligible electric generating facility that flows to the retail electric supplier, as measured by the standard kilowatt-hour metering prescribed in subsection (2) of this section. The rate to be used for such compensation shall be set by the commission using the ratemaking processes under this chapter during a proceeding initiated by a retail electric supplier or generation and transmission cooperative on behalf of one (1) or more retail electric suppliers.***

(4) Each billing period, compensation provided to an eligible customer-generator shall be in the form of a dollar-denominated bill credit. If an eligible customer-generator's bill credit exceeds the amount to be billed to the customer in a billing period, the amount of the credit in excess of the customer's bill shall carry forward to the customer's next bill. Excess bill credits shall not be transferable between customers or premises. If an eligible customer-generator closes his or her account, no cash refund for accumulated credits shall be paid.

(5) Using the ratemaking process provided by this chapter, each retail electric supplier shall be entitled to implement rates to recover from its eligible customer-generators all costs necessary to serve its eligible customer-generators, including but not limited to fixed and demand-based costs, without regard for the rate structure for customers who are not eligible customer-generators.

(6) For an eligible electric generating facility in service prior to the effective date of the initial net metering order by the commission in accordance with subsection (3) of this section, the net metering tariff provisions

in place when the eligible customer-generator began taking net metering service, including the one-to-one (1:1) kilowatt-hour denominated energy credit provided for electricity fed into the grid, shall remain in effect at those premises for a twenty-five (25) year period, regardless of whether the premises are sold or conveyed during that twenty-five (25) year period. For any eligible customer-generator to whom this paragraph applies, each net metering contract or tariff under which the customer takes service shall be identical, with respect to energy rates, rate structure, and monthly charges, to the contract or tariff to which the same customer would be assigned if the customer were not an eligible customer-generator~~[The amount of electricity billed to the eligible customer-generator using net metering shall be calculated by taking the difference between the electricity supplied by the retail electric supplier to the customer and the electricity generated and fed back by the customer. If time-of-day or time-of-use metering is used, the electricity fed back to the electric grid by the eligible customer-generator shall be net metered and accounted for at the specific time it is fed back to the electric grid in accordance with the time-of-day or time-of-use billing agreement currently in place.~~

~~(4) Each net metering contract or tariff shall be identical, with respect to energy rates, rate structure, and monthly charges, to the contract or tariff to which the same customer would be assigned if the customer were not an eligible customer-generator.~~

~~(5) The following rules shall apply to the billing of net electricity:~~

~~(a) The net electricity produced or consumed during a billing period shall be read, recorded, and measured in accordance with metering practices prescribed by the commission;~~

~~(b) If the electricity supplied by the retail electric supplier exceeds the electricity generated and fed back to the supplier during the billing period, the customer generator shall be billed for the net electricity supplied in accordance with subsections (3) and (4) of this section;~~

~~(c) If the electricity fed back to the retail electric supplier by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer generator shall be credited for the excess kilowatt hours in accordance with subsections (3) and (4) of this section. This electricity credit shall appear on the customer generator's next bill. Credits shall carry forward for the life of the customer-generator's account;~~

~~(d) If a customer generator closes his account, no cash refund for residual generation related credits shall be paid; and~~

~~(e) Excess electricity credits are not transferable between customers or locations]~~.

(7)~~[(6)]~~ Electric generating systems and interconnecting equipment used by eligible customer-generators shall meet all applicable safety and power quality standards established by the National Electrical Code (NEC), Institute of Electrical and Electronics Engineers (IEEE), and accredited testing laboratories such as Underwriters Laboratories.

(8)~~[(7)]~~ An eligible customer-generator installation is transferable to other persons ***at the same premises***~~[or service locations]~~ upon notification to the retail electric supplier and verification that the installation is in compliance with the applicable safety and power quality standards in KRS 278.467 and in subsection ***(7)***~~[(6)]~~ of this section.

(9)~~[(8)]~~ Any upgrade of the interconnection between the retail electric supplier and the customer-generator that is required by commission-approved tariffs for the purpose of allowing net metering shall be made at the expense of the customer-generator.

➔Section 3. KRS 278.467 is amended to read as follows:

(1) The commission shall have original jurisdiction over any dispute between a retail electric supplier and an eligible customer-generator, regarding net metering rates, service, standards, performance of contracts, and testing of net meters.

(2) No later than one hundred eighty (180) days from July 15, 2008, the Public Service Commission shall develop interconnection and net metering guidelines for all retail electric suppliers operating in the Commonwealth. The guidelines shall meet the requirements of KRS 278.466***(7)***~~[(6)]~~.

(3) No later than ninety (90) days from the issuance by the Public Service Commission of the guidelines required under subsection (2) of this section, each retail electric supplier shall file with the commission a net metering tariff and application forms to comply with those guidelines. All retail electric suppliers shall make their net

metering tariff and interconnection practices easily available to the public by posting the tariff and practices on their Web sites.

➔Section 4. This Act takes effect January 1, 2020.

Signed by Governor March 26, 2019.

CHAPTER 102

(SB 98)

AN ACT relating to the Work Ready Kentucky Scholarship and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS 164.740 TO 164.7891 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby establishes the Work Ready Kentucky Scholarship Program to ensure that all Kentuckians who have not yet earned a postsecondary degree have affordable access to an industry-recognized certificate, diploma, or associate of applied science degree.

(2) For purposes of this section:

(a) "Academic term" means a fall, spring, or summer academic term or other time period specified in an administrative regulation promulgated by the authority;

(b) "Academic year" means July 1 through June 30 of each year;

(c) "Approved dual credit course" means a dual credit course developed in accordance with KRS 164.098 that is a career and technical education course within a career pathway approved by the Kentucky Department of Education that leads to an industry-recognized credential;

(d) "Dual credit tuition rate ceiling" means the same as defined in 164.786;

(e) "Eligible institution" means an institution defined in KRS 164.001 that:

1. Actively participates in the federal Pell Grant program;

2. Executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs;

3. Charges no more than the dual credit tuition rate ceiling per credit hour, including any additional fees, for any dual credit course it offers to any Kentucky public or nonpublic high school student; and

4. Is a:

a. Kentucky Community and Technical College System institution;

b. Kentucky public university; or

c. College, university, or vocational-technical school that is accredited by a recognized regional or national accrediting body and licensed to operate at a site in Kentucky.

(f) "Eligible program of study" means a program approved by the authority that leads to an industry-recognized certificate, diploma, or associate of applied science degree in one (1) of Kentucky's top five (5) high-demand workforce sectors identified by the Kentucky Workforce Innovation Board and the Education and Workforce Development Cabinet;

(g) "Fees" means mandatory fees charged by an eligible institution for enrollment in a course, including but not limited to online course fees, lab fees, and administrative fees. "Fees" does not include tools, books, or other instructional materials that may be required for a course; and

(h) "Tuition" means the in-state tuition charged to all students as a condition of enrollment in an eligible institution.

(3) In consultation with the Education and Workforce Development Cabinet, the Kentucky Department of Education, and the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority shall administer the Work Ready Kentucky Scholarship Program and promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the scholarship.

(4) An eligible high school student shall:

(a) Be a Kentucky resident;

(b) Be enrolled in a Kentucky high school;

(c) Be enrolled, or accepted for enrollment, in an approved dual credit course at an eligible institution; and

(d) Complete and submit a Work Ready Kentucky Scholarship dual credit application to the authority.

(5) An eligible workforce student shall:

(a) Be a citizen or permanent resident of the United States;

(b) Be a Kentucky resident as determined by the eligible institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;

(c) Have earned a high school diploma or a High School Equivalency Diploma or be enrolled in a High School Equivalency Diploma program;

(d) Not have earned an associate's degree or higher level postsecondary degree;

(e) Complete the Free Application for Federal Student Aid for the academic year in which the scholarship is awarded;

(f) Complete and submit a Work Ready Kentucky Scholarship application to the authority;

(g) Enroll in an eligible program of study at an eligible institution;

(h) Not be enrolled in an ineligible degree program, such as a bachelor or unapproved associate program, at any postsecondary institution;

(i) Following the first academic term scholarship funds are received, achieve and maintain satisfactory academic progress as determined by the eligible institution; and

(j) Not be in default on any program under Title IV of the federal act or any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.7891 or 164.7894, except that ineligibility for this reason may be waived by the authority for cause.

(6) (a) Beginning with the 2019-2020 academic year, the authority shall award a Work Ready Kentucky Scholarship each academic term to any person who meets the requirements of this section to the extent funds are available for that purpose.

(b) The scholarship amount awarded to an eligible workforce student for an academic term shall be the amount remaining after subtracting the student's federal and state grants and scholarships from the maximum scholarship amount. The maximum scholarship amount shall be the per credit hour in-state tuition rate at the Kentucky Community and Technical College System multiplied by the number of credit hours in which the student is enrolled and the fees charged to the student. The authority shall promulgate an administrative regulation in accordance with KRS Chapter 13A to specify the maximum amount to be awarded for fees, except that for the 2019-2020 academic year the amount awarded for fees shall not exceed four hundred dollars ($400).

(c) The scholarship award for an eligible high school student shall be limited to two (2) approved dual credit courses per academic year. The scholarship amount awarded shall be equal to the amount charged by an eligible institution for an approved dual credit course, in accordance with subsection (2)(e)3. of this section.

(7) An eligible workforce student's eligibility for the scholarship shall terminate upon the earlier of:

(a) Receiving the scholarship for four (4) academic terms;

(b) Receiving the scholarship for a total of sixty (60) credit hours; or

(c) Obtaining an associate's degree.

(8) The authority shall annually provide a report on the Work Ready Kentucky Scholarship Program, prepared in collaboration with the Office for Education and Workforce Statistics, to the secretary of the Education and Workforce Development Cabinet that includes the following:

(a) By academic term, academic year, institution, and workforce sector, the number of:

1. Students served by the scholarship and the total amount disbursed; and

2. Credits, certificates, diplomas, and associate of applied science degrees earned by students receiving the scholarship.

(9) The authority shall report Work Ready Kentucky Scholarship program data to the Office for Education and Workforce Statistics for analysis of the program's success in meeting the goal of increasing skilled workforce participation rates.

(10) (a) The Work Ready Kentucky Scholarship fund is hereby created as a trust fund in the State Treasury to be administered by the authority for the purpose of providing scholarships as described in this section.

(b) The trust fund shall consist of state general fund appropriations, gifts and grants from public and private sources, and federal funds. All moneys included in the fund shall be appropriated for the purposes set forth in this section.

(c) Any unalloted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund.

(d) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.

➔Section 2. The General Assembly confirms Executive Order 2018-571, dated July 11, 2018, to the extent not otherwise confirmed or superseded by this Act.

Signed by Governor March 26, 2019.

CHAPTER 103

(SB 85)

AN ACT relating to driving under the influence and making an appropriation therefor.

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

➔Section 1. KRS 189A.005 is amended to read as follows:

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

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) ***"Cabinet" means the Transportation Cabinet;***

(3) "Ignition interlock device" ***or "device"*** means a device, certified by the Transportation Cabinet for use in this Commonwealth under ***Section 17 of this Act***~~[KRS 189A.500(1)]~~, that***:***

(a) Connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting, and from continuing to operate, if a driver's breath alcohol concentration exceeds 0.02, as measured by the device; ***and***

(b) Has a fully functional camera that is equipped to record the date, time, and photo of all persons providing breath samples to the device;

(4)~~[(3)]~~ "Ignition interlock ***certificate***~~[certification]~~ of installation" means a certificate providing that the installed ignition interlock device ***has been installed and*** is certified for use in the Commonwealth under ***Section 17 of this Act***~~[KRS 189A.500(1)]~~;

(5)~~[(4)]~~ "Ignition interlock device provider" ***or "provider"*** means any person or company ***certified by the Transportation Cabinet to engage***~~[engaged]~~ in the business of manufacturing, selling, leasing, servicing, or monitoring ignition interlock devices within the Commonwealth;

(6)~~[(5)]~~ "Ignition interlock license" means a motor vehicle or motorcycle operator's license issued or granted by the laws of the Commonwealth of Kentucky that, ***except for those with an employer exemption under Section 15 of this Act***~~[with limited exceptions]~~, permits a person to drive only motor vehicles or motorcycles equipped with a functioning ignition interlock device;

(7)~~[(6)]~~ "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

(8)~~[(7)]~~ "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;

(9)~~[(8)]~~ "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered; ***and***

(10)~~[(9)]~~ When age is a factor, it shall mean age at the time of the commission of the offense~~[; and~~

~~(10) Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment~~].

➔Section 2. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While the presence of a controlled substance listed in subsection (12) of this section is detected in the blood, as measured by a scientifically reliable test, or tests, taken within two (2) hours of cessation of operation or physical control of a motor vehicle;

(e) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(f) Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle, if the person is under the age of twenty-one (21).

(2) With the exception of the results of the tests administered pursuant to KRS 189A.103(7)***:***~~[,]~~

(a) If the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor

vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(a) or (f) of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(b) or (e) of this section***; or***

(b) If the sample of the person's blood that is used to determine the presence of a controlled substance was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(d) of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(c) or (e) of this section.

(3) In any prosecution for a violation of subsection (1)(b) or (e) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than ***0.04***~~[0.05]~~ based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of ***0.04***~~[0.05]~~ or greater but less than 0.08 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (e) of this section.

(4) (a) Except as provided in paragraph (b) of this subsection, the fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(b) A laboratory test or tests for a controlled substance shall be inadmissible as evidence in a prosecution under subsection (1)(d) of this section upon a finding by the court that the defendant consumed the substance under a valid prescription from a practitioner, as defined in KRS 218A.010, acting in the course of his or her professional practice. ***However, a laboratory test for a controlled substance may be admissible as evidence in a prosecution under subsection (1)(c) or (e) of this section.***

(5) Any person who violates the provisions of paragraph (a), (b), (c), (d), or (e) of subsection (1) of this section shall:

(a) For the first offense within a ten (10) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(b) For the second offense within a ten (10) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(c) For a third offense within a ten (10) year period, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ***thirty (30)***~~[ten (10)]~~ days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the

mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(d) For a fourth or subsequent offense within a ten (10) year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release; and

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state or jurisdiction, for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(f) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6) Any person who violates the provisions of subsection (1)(f) of this section shall ~~[have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall]~~be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this subsection shall not be subject to the penalties established in subsection (5) of this section or any other penalty established pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1) ***and Section 5 of this Act***.

(7) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.08 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (5) of this section.

(8) For a second or third offense within a ten (10) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10) In determining the ten (10) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.15 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section***, except it shall not be considered an aggravating circumstance for a first offense under subsection (5)(a) of this section***; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

(12) The substances applicable to a prosecution under subsection (1)(d) of this section are:

(a) Any Schedule I controlled substance except marijuana;

(b) Alprazolam;

(c) Amphetamine;

(d) Buprenorphine;

(e) Butalbital;

(f) Carisoprodol;

(g) Cocaine;

(h) Diazepam;

(i) Hydrocodone;

(j) Meprobamate;

(k) Methadone;

(l) Methamphetamine;

(m) Oxycodone;

(n) Promethazine;

(o) Propoxyphene; and

(p) Zolpidem.

➔Section 3. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by KRS 189A.010(5)(a) or (6), the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender or a person convicted under KRS 189A.010(1)(f):

(a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment;

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant shall be released prior to the expiration of the ninety (90) day period; and

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment;

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period; and

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program;

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program;

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period; and

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For defendants who are Medicaid-eligible, alcohol or substance abuse treatment under this section shall be authorized by the Department for Medicaid Services and its contractors as Medicaid-eligible services and shall be subject to the same medical necessity criteria and reimbursement methodology as for all other covered behavioral health services.

(6) ~~[(5)]~~ For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health and Family Services for services as required under this section.

(7) ~~[(6)]~~ The Cabinet for Health and Family Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health and Family Services shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(8) ~~[(7)]~~ The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(9) ~~[(8)]~~ Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

➔Section 4. KRS 189A.045 is amended to read as follows:

(1) ***(a) Except as provided in paragraph (b) of this subsection,*** when a court requires a defendant to enroll in an alcohol or ***substance abuse*** ~~[drug]~~ education or treatment program pursuant to this chapter, it shall require the defendant to accomplish the enrollment within ten (10) days of the entry of judgment of conviction.

(b) A defendant may choose to enroll in an alcohol or substance abuse education or treatment program prior to conviction. If a defendant chooses to enroll prior to conviction, the alcohol or substance abuse education or treatment completed prior to conviction shall count towards the period of alcohol or substance abuse education or treatment required pursuant to Section 3 of this Act.

(2) When a defendant enrolls in the program ~~[ordered by the court]~~, the administrator of the program or his authorized representative shall transmit to the court a certificate of enrollment within five (5) working days of the enrollment.

(3) If the court does not receive a certificate of enrollment from the administrator of a program to which the defendant has been assigned within twenty (20) days of the entry of judgment of conviction, the court shall hold a hearing requiring the defendant to show cause why he did not enroll.

(4) If a defendant enrolled in ***an***~~[a drug or]~~ alcohol ***or substance abuse*** education or treatment program drops out of the program or does not maintain satisfactory attendance at the program, the administrator of the program or his authorized representative shall transmit to the court a notice describing the defendant's failure to attend.

(5) Upon receipt of a notice of failure to attend a required alcohol or ***substance abuse*** ~~[drug]~~education or treatment program, the court shall hold a hearing requiring the defendant to show cause why he should not be held in contempt of court and be subject to the reinstatement of any penalties which may have been withheld pending completion of treatment.

(6) When a defendant completes the required alcohol or ***substance abuse***~~[drug]~~ education or treatment program, the administrator of the program shall notify the court and the Transportation Cabinet of the defendant's completion of the program.

➔Section 5. KRS 189A.070 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) 1. Unless the person is under eighteen (18) years of age, in addition to the penalties specified in Section 2 of this Act, the Transportation Cabinet shall suspend a person's license to operate a motor vehicle or motorcycle upon conviction of subsection (1) of Section 2 of this Act.

2. Upon conviction of subsection (1)(a), (b), (c), (d), or (e) of Section 2 of this Act, the Transportation Cabinet shall suspend a person's license to operate a motor vehicle or motorcycle as follows:

a. For the first offense within a ten (10) year period:

i. For a person who is issued an ignition interlock license under Section 15 of this Act and who meets the ninety (90) consecutive day requirement within the first four (4) months of the issuance of the ignition interlock license, four (4) months;

ii. For a person who is issued an ignition interlock license under Section 15 of this Act but does not meet the ninety (90) consecutive day requirement within the first four (4) months of the issuance of the ignition interlock license, until the person meets the ninety (90) consecutive day requirement or six (6) months, whichever is shorter; or

iii. For all others, six (6) months;

b. For the second offense within a ten (10) year period:

i. For a person who is issued an ignition interlock license under Section 15 of this Act and who meets the one hundred twenty (120) consecutive day requirement within the first twelve (12) months of the issuance of the ignition interlock license, twelve (12) months;

ii. For a person who is issued an ignition interlock license under Section 15 of this Act but does not meet the one hundred twenty (120) consecutive day requirement within the first twelve (12) months of the issuance of the ignition interlock license, until the person meets the one hundred twenty (120) consecutive day requirement or eighteen (18) months, whichever is shorter; or

iii. For all others, eighteen (18) months;

c. For a third offense within a ten (10) year period:

i. For a person who is issued an ignition interlock license under Section 15 of this Act and who meets the one hundred twenty (120) consecutive day requirement within the first eighteen (18) months of the issuance of the ignition interlock license, eighteen (18) months;

ii. For a person who is issued an ignition interlock license under Section 15 of this Act but does not meet the one hundred twenty (120) consecutive day requirement within the first eighteen (18) months of the issuance of the ignition interlock license, until the person meets the one hundred twenty (120) consecutive day requirement or thirty-six (36) months, whichever is shorter; or

iii. For all others, thirty-six (36) months;

d. For a fourth or subsequent offense within a ten (10) year period:

i. For a person who is issued an ignition interlock license under Section 15 of this Act and who meets the one hundred twenty (120) consecutive day requirement within the first thirty (30) months of the issuance of the ignition interlock license, thirty (30) months;

ii. For a person who is issued an ignition interlock license under Section 15 of this Act but does not meet the one hundred twenty (120) consecutive day requirement within the first thirty (30) months of the issuance of the ignition interlock license, until the person meets the one hundred twenty (120) consecutive day requirement or sixty (60) months, whichever is shorter; or

iii. For all others, sixty (60) months;

e. If the conviction records transmitted to the Transportation Cabinet pursuant to subsection (3) of this section show that a person was convicted of a:

i. First offense of Section 2 of this Act, the person's license shall be suspended as provided in subdivision a. of this subparagraph;

ii. Second offense of Section 2 of this Act, the person's license shall be suspended as provided in subdivision b. of this subparagraph;

iii. Third offense of Section 2 of this Act, the person's license shall be suspended as provided in subdivision c. of this subparagraph; and

iv. Fourth or subsequent offense of Section 2 of this Act, the person's license shall be suspended as provided in subdivision d. of this subparagraph; and

f. The license suspension shall be deemed effective on the date of entry of the court's order or judgement for a conviction of Section 2 of this Act.

3. Upon conviction of subsection (1)(f) of Section 2 of this Act, the Transportation Cabinet shall suspend a person's license to operate a motor vehicle or motorcycle as follows:

a. For a person who is issued an ignition interlock license under Section 15 of this Act and who meets the ninety (90) consecutive day requirement within the first four (4) months of the issuance of the ignition interlock license, four (4) months;

b. For a person who is issued an ignition interlock license under Section 15 of this Act but does not meet the ninety (90) consecutive day requirement within the first four (4) months of the issuance of the ignition interlock license, until the person meets the ninety (90) consecutive day requirement or six (6) months, whichever is shorter; or

c. For all others, six (6) months.

4. For purposes of this paragraph, "ninety (90) consecutive day requirement" and "one hundred twenty (120) consecutive day requirement" mean the requirements established in subsection (4)(b)2. of Section 15 of this Act.

(b) For a person under the age of eighteen (18), in addition to the penalties specified in Section 2 of this Act, the Transportation Cabinet shall suspend the person's license to operate a motor vehicle or motorcycle upon conviction of subsection (1) of Section 2 of this Act. The person shall have his or her license suspended until he or she reaches the age of eighteen (18) or as provided in paragraph (a) of this subsection, whichever penalty will result in the longer period of suspension.

(2) In addition to the period of license suspension set forth in subsection (1) of this section, no person shall be eligible for reinstatement of his or her full privilege to operate a motor vehicle or motorcycle until he or she has completed the alcohol or substance abuse education or treatment program ordered pursuant to Section 3 of this Act.

(3) Upon conviction of subsection (1) of Section 2 of this Act:

(a) A person shall surrender his or her license to operate a motor vehicle or motorcycle to the court. Should the person fail to surrender his or her license to the court, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court. The court shall then forward the license to the Transportation Cabinet. This paragraph shall

not apply to a person who has previously surrendered his or her license pursuant to Section 11 of this Act; and

(b) The court shall immediately transmit the conviction records and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(4) In determining the ten (10) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

➔Section 6. KRS 189A.085 is amended to read as follows:

(1) Unless ***a person has been issued an ignition interlock license under Section 15 of this Act or a hardship license under Section 21 of this Act***,~~[at the final sentencing hearing of]~~ a person who has been convicted of ***an*** ~~[a second or subsequent]~~ offense under KRS 189A.010~~[, the person provides proof that the requirements of KRS 189A.420 have been met for issuance of an ignition interlock license, the person]~~ shall have the license plate or plates on all of the motor vehicles ***or motorcycles*** owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing***, or within forty-five (45) days thereafter***, the person shall physically surrender any and all license plate or plates currently in force on any motor vehicle ***or motorcycle*** owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the~~[motor vehicle]~~ operator's license~~[of the second or subsequent offender]~~ as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) Upon application, the court may grant hardship exceptions to family members or other individuals affected by the surrender of any license plate or plates of any ***motor*** vehicle ***or motorcycle*** owned by the~~[second or subsequent]~~ offender. Hardship exceptions may be granted by the court to the~~[second or subsequent]~~ offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered ***motor*** vehicles ***or motorcycles*** would pose an undue hardship upon the family members or ~~[affected]~~ other ***affected*** individuals. Upon the court's granting of hardship exceptions, the clerk or the Transportation Cabinet as appropriate, shall return to the family members or other affected individuals the license plate or plates of the ***motor*** vehicles ***or motorcycles*** of the~~[second or subsequent]~~ offender for their utilization. The~~[second or subsequent]~~ offender shall not be permitted to operate a ***motor*** vehicle ***or motorcycle*** for which the license plate has been suspended or for which a hardship exception has been granted***, unless the offender has been issued an ignition interlock license under Section 15 of this Act or a hardship license under Section 21 of this Act***~~[under any circumstances]~~.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be transferred to a joint owner of the vehicle who was not the violator.

(4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

➔Section 7. KRS 189A.090 is amended to read as follows:

(1) No person shall operate or be in physical control of a motor vehicle ***or motorcycle*** while his or her license is~~[revoked or]~~ suspended under this chapter,~~[or upon the conclusion of a license revocation period pursuant to KRS 189A.340]~~ unless the person has ***a***~~[his or her]~~ valid***:***

(a) Ignition interlock license in the person's possession and***:***

1. The motor vehicle or motorcycle is equipped with a functioning ignition interlock device~~[as required by KRS 189A.420.]~~***; or***

2. The person is operating or in physical control of an employer's motor vehicle or motorcycle in accordance with subsection (6) of Section 15 of this Act; or

(b) Hardship license in the person's possession.

(2) In addition to ***the period of license suspension imposed by Section 5 of this Act***~~[any other penalty imposed by the court]~~, any person who violates subsection (1) of this section shall:

(a) For a first offense within a ten (10) year period, be guilty of a Class B misdemeanor and have his ***or her*** license ***suspended***~~[revoked]~~ by the ***Transportation Cabinet***~~[court]~~ for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event ***the person***~~[he]~~ shall be guilty of a Class A misdemeanor and have his ***or her*** license ***suspended***~~[revoked]~~ by the ***Transportation Cabinet***~~[court]~~ for a period of one (1) year;

(b) For a second offense within a ten (10) year period, be guilty of a Class A misdemeanor and have his ***or her*** license ***suspended***~~[revoked]~~ by the ***Transportation Cabinet***~~[court]~~ for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event ***the person***~~[he]~~ shall be guilty of a Class D felony and have his ***or her*** license ***suspended***~~[revoked]~~ by the ***Transportation Cabinet***~~[court]~~ for a period of two (2) years; ***and***

(c) For a third or subsequent offense within a ten (10) year period, be guilty of a Class D felony and have his ***or her*** license ***suspended***~~[revoked]~~ by the ***Transportation Cabinet***~~[court]~~ for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event ***the person***~~[he]~~ shall be guilty of a Class D felony and have his ***or her*** license ***suspended***~~[revoked]~~ by the ***Transportation Cabinet***~~[court]~~ for a period of five (5) years.~~[; and]~~

(3)~~[(d)]~~ ***Any person who violates subsection (1) of this section may***~~[At the sole discretion of the court, in the interest of public safety and upon a written finding in the record for good cause shown, the court may order that, following any period of incarceration required for the conviction of an offense under paragraph (a), (b), or (c) of this subsection, the eligible person is authorized to]~~ apply for~~[and the cabinet shall issue to the person]~~ an ignition interlock license for the remainder of the original period of suspension ***under Section 5 of this Act***~~[or revocation]~~ and for the entire period of the new ***suspension***~~[revocation]~~ if the person is and remains otherwise eligible for such license ***pursuant to Section 15 of this Act***.

(4)~~[(3)]~~ The ten (10) year period under this section shall be measured in the same manner as in KRS 189A.070.

~~[(4) Upon a finding of a violation of any of the requirements of an ignition interlock license, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.]~~

➔Section 8. KRS 189A.100 is amended to read as follows:

(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. Such tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) ***(a)*** Law enforcement agencies may record on film or videotape or by other visual and audible means***:***

1. The pursuit of a violator or suspected violator***;***~~[,]~~

2. The traffic stop***;***~~[,]~~ or

3. ***a.*** Field sobriety tests administered at the scene~~[of an arrest for violation of KRS 189A.010]~~ or such tests at a police station, jail, or other suitable facility***; or***

b. The refusal of a violator or suspected violator to submit to tests under KRS 189A.103;

for a suspected violation of KRS 189A.010.

(b) Recordings made under paragraph (a) of this subsection shall be subject to the following conditions:

1.~~[(a)]~~ The testing is recorded in its entirety (except for blood alcohol analysis testing);~~[and]~~

2.~~[(b)]~~ The entire recording of the field sobriety tests ***or refusal*** and the entire recording of~~[such portions of]~~ the pursuit and traffic stop~~[as were recorded]~~ is shown in court unless the defendant waives the showing of any portions not offered by the prosecution;~~[and]~~

3.~~[(c)]~~ The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth;~~[and]~~

4.~~[(d)]~~ The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense;~~[and]~~

5.~~[(e)]~~ Recordings shall be used for official purposes only, which shall include:

a.~~[1.]~~ Viewing in court;

b.~~[2.]~~ Viewing by the prosecution and defense in preparation for a trial; and

c.~~[3.]~~ Viewing for purposes of administrative reviews and official administrative proceedings. Recordings shall otherwise be considered as confidential records;~~[and]~~

6.~~[(f)]~~ The videotape or film taken in accordance with this section shall, upon order of the ***sentencing***~~[District]~~ court, be destroyed after the later of the following:

a.~~[1.]~~ Fourteen (14) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, or if the videotape or film does not record the actual happening of an accident involving a motor vehicle;

b.~~[2.]~~ Fourteen (14) months after a decision has been made not to prosecute any case upon which an arrest has been made or a citation issued as a result of the videotape or film, if the videotape does not record the actual happening of an accident involving a motor vehicle;

c.~~[3.]~~ Twenty-six (26) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, if the videotape or film records the actual happening of an accident involving a motor vehicle;

d.~~[4.]~~ After all appeals have been exhausted arising from any criminal or traffic case filed as a result of the videotape;

e.~~[5.]~~ At the conclusion of any civil case arising from events depicted on the videotape or film; or

f.~~[6.]~~ At the conclusion of the exhaustion of all appeals arising from any law enforcement agency administrative proceedings arising from events depicted on the videotape or film; and

7.~~[(g)]~~ Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

(3) When a peace officer makes a videotape or film recording of any transaction covered by subsection (2) of this section and a citation is issued or an arrest is made, the peace officer shall note on the uniform citation that a videotape has been made of the transaction.

➔Section 9. KRS 189A.105 is amended to read as follows:

(1) A person's refusal to submit to tests under KRS 189A.103 shall result in ***suspension***~~[revocation]~~ of his ***or her*** driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests***:***~~[,]~~

a. The fact of this refusal may be used against him ***or her*** in court as evidence of violating KRS 189A.010 and will result in ***suspension***~~[revocation]~~ of his ***or her*** driver's license ***by the court at the time of arraignment;***~~[, and if the person refuses to submit to the tests]~~ and

b. Is subsequently convicted of violating KRS 189A.010(1)***:***

i. ***For a second or third time within a ten (10) year period,***~~[then]~~ he ***or she*** will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he ***or she*** submits to the tests***;***~~[,]~~ and ~~[that if the person refuses to submit to the tests]~~

ii. His or her license will be suspended by the ***Transportation Cabinet***~~[court at the time of arraignment, and he or she will be unable to obtain an ignition interlock license during the suspension period]~~;~~[and]~~

2. That, if a test is taken***:***~~[,]~~

a. The results of the test may be used against ***the person***~~[him]~~ in court as evidence of violating KRS 189A.010(1)***;***~~[,]~~ and

b. The person has the right to have a test or tests of his or her blood performed by a person of his or her choosing described in KRS 189A.103 within a reasonable time of his or her arrest at the expense of the person arrested; and

3. That although his or her license will be suspended, he or she may be eligible immediately for an ignition interlock license allowing him or her to drive during the period of suspension and, if he or she is convicted, he or she will receive a credit toward any other ignition interlock requirement arising from this arrest~~[; and~~

~~3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested]~~.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged. However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating peace officer shall seek such a search warrant for blood, breath, or urine testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged~~[with]~~ and convicted of ***a violation of subsection (1) of Section 2 of this Act***~~[an offense arising from the accident]~~, the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.

(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.

(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his ***or her*** right to have a test or tests of his ***or her*** blood performed by a person of his ***or her*** choosing described in KRS 189A.103 within a reasonable time of his ***or her*** arrest at the expense of the person arrested. He ***or she*** shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

➔Section 10. KRS 189A.107 is amended to read as follows:

(1) A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated KRS 189A.010(1) shall have his ***or her*** driver's license suspended~~[by the court]~~ during the pendency of the action ***as provided in Section 11 of this Act***~~[under KRS 189A.200 unless, at the time of arraignment, the person files a motion with the court waiving the right to judicial review of the suspension, after which the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under KRS 189A.420 for the period of the suspension. If the person complies with the requirements of KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and apply the court-determined credit on a day for day basis for any subsequent ignition interlock requirement arising from the same incident]~~.

(2) ***(a)*** In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which it is alleged that he ***or she*** refused to take an alcohol concentration or substance test, upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under KRS 189A.200 and 189A.220.

(b) If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for ***the***~~[a]~~ period of time~~[within the time range specified that]~~ the license would have been suspended upon conviction as set forth in KRS 189A.070(1), except that the court~~[, in its discretion,]~~ may authorize the person to apply to the ***Transportation*** Cabinet for issuance of an ignition interlock license under ***Section 15 of this Act***~~[KRS 189A.420]~~ for the period of the suspension~~[. If the person complies with the requirements of KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and grant the person day for day credit for any subsequent ignition interlock requirement arising from the same incident]~~.

(c) When the court orders the suspension of a person's license pursuant to this subsection, the person shall surrender the license in the same manner prescribed by subsection (4) of Section 11 of this Act. In addition, notice of the suspension shall be immediately transmitted to the Transportation Cabinet.

➔Section 11. KRS 189A.200 is amended to read as follows:

(1) The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1) who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his ***or her*** operator's license~~[revoked or]~~ suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the ten (10) year period immediately preceding his ***or her*** arrest; or

(c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to:

(a) Subsection (1)(a) of this section~~[If the person files a motion with the court waiving the right to judicial review of the suspension]~~, the court~~[, in its discretion,]~~ may***, in addition to any other conditions the court may order, require that the***~~[authorize the]~~ person~~[to]~~ apply to the ***Transportation*** Cabinet for issuance of an ignition interlock license under ***Section 15 of this Act***~~[KRS 189A.420]~~ for the period of the suspension***;***

(b) Subsection (1)(b) or (c) of this section, the court shall, in addition to any other conditions the court may order, require that the person apply to the Transportation Cabinet for issuance of an ignition interlock license under Section 15 of this Act for the period of suspension; and

(c) Subsection (1) of this section and the person is required to apply for an ignition interlock license pursuant to paragraph (a) or (b) of this subsection, the person shall present the completed ignition interlock license application to the court.~~[If the person complies with KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and apply the court determined credit on a day for day basis for any subsequent ignition interlock requirement arising from the same incident.]~~

(4)~~[(3)]~~ When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender ***his or her***~~[the]~~ license to ***operate a motor vehicle or motorcycle to***~~[the Circuit Court clerk, and]~~ the court***. Should the defendant fail to surrender his or her license to the court, the court*** shall ***issue an order directing***~~[retain the defendant in court or remand him into the custody of]~~ the sheriff ***or any other peace officer to seize***~~[until]~~ the license ***forthwith and deliver it to the court***~~[is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued]~~. If the license is currently under suspension~~[or revocation]~~, the provisions of this subsection shall not apply.

(5)~~[(4)]~~ The Circuit Court Clerk shall forthwith transmit to the Transportation Cabinet***:***

(a) Any license surrendered~~[to him]~~ pursuant to this section***; and***

(b) If the court ordered a person to apply for an ignition interlock device under subsection (3) of this section, notification of the order.

(6)~~[(5)]~~ Licenses suspended under this section shall remain suspended until***:***

(a) The person is acquitted;

(b) All pending or current charges relating to a violation of Section 2 of this Act have been dismissed; or

(c) The person is convicted and the Transportation Cabinet has suspended his or her license pursuant to Section 5 of this Act;~~[a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension,]~~

but in no event for a period longer than the~~[maximum]~~ license suspension period applicable to the person under KRS 189A.070 ***or***~~[and]~~ 189A.107.

~~[Nothing in this subsection shall prevent the person from filing a motion for, the court from granting, or the Cabinet from issuing an ignition interlock license under subsection (2) of this section.]~~

(7)~~[(6)]~~ Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of ***suspension***~~[revocation]~~ imposed ***under Section 5 of this Act***.~~[Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.]~~

➔Section 12. KRS 189A.220 is amended to read as follows:

In any judicial review of a pretrial suspension imposed for refusal to take an alcohol concentration or substance test ***under subsection (1)(a) of Section 11 of this Act***, if the court determines, by the preponderance of the evidence, that:

(1) The person was charged and arrested by a peace officer with violation of KRS 189A.010(1);

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010(1);

(3) The person was advised of the implied consent law pursuant to KRS ***189A.105***~~[189A.103]~~;

(4) The peace officer requested the person to take the test or tests pursuant to KRS 189A.103; and~~[then]~~

(5) The person refused to take a test requested by a peace officer pursuant to KRS 189A.103***;***~~[,]~~

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings***, but in no event for a period longer than the license suspension period applicable to the person under Sections 5 and 10 of this Act***.

➔Section 13. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)***(b)***~~[(a)]~~, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his ***or her*** motor vehicle operator's license suspended~~[or revoked]~~ on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the ten (10) year period immediately preceding his ***or her*** arrest***;***~~[,]~~

then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle***, but in no event for a period longer than the license suspension period applicable to the person under Sections 5 and 10 of***

this Act. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

➔Section 14. KRS 189A.250 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)***(c)*** ~~[(b)]~~, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with violation of KRS 189A.010;

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010;

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1) as charged; and

(4) There is probable cause to believe that the person was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant;

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings***, but in no event for a period longer than the license suspension period applicable to the person under Sections 5 and 10 of this Act***.

➔SECTION 15. KRS 189A.340 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) If a person's license is suspended pursuant to this chapter and the initial suspension was for a violation of subsection (1)(a), (b), (e), or (f) of Section 2 of this Act, the sole license the person shall be eligible for is an ignition interlock license pursuant to this section.

(b) If a person's license is suspended pursuant to this chapter and the initial suspension was for a violation of subsection (1)(c) or (d) of Section 2 of this Act, the person shall be eligible for an ignition interlock license pursuant to this section and may be eligible for a hardship license pursuant to Section 21 of this Act.

(2) (a) A person may apply for an ignition interlock license anytime, including after receiving the notices under Section 9 of this Act or after his or her license has been suspended pursuant to this chapter.

(b) If at the time the person applies for an ignition interlock license, the person's license has been suspended pursuant to this chapter, the person shall be authorized to drive to:

1. An ignition interlock device provider to have a functioning ignition interlock device installed in his or her motor vehicle or motorcycle; and

2. The circuit clerk's office in the person's county of residence to obtain an ignition interlock license;

This paragraph shall only apply within fourteen (14) days of the date printed on the ignition interlock approval letter issued by the Transportation Cabinet and if the person has the ignition interlock approval letter in the motor vehicle or motorcycle.

(3) Before the Transportation Cabinet shall issue an ignition interlock license, the person shall:

(a) Submit an application for an ignition interlock license;

(b) Provide proof of motor vehicle insurance;

(c) Provide an ignition interlock certificate of installation issued by an ignition interlock device provider; and

(d) Provide any other information required by administrative regulations promulgated by the Transportation Cabinet under Section 17 of this Act.

(4) An ignition interlock license shall restrict the person to operating only a motor vehicle or motorcycle equipped with a functioning ignition interlock device, unless the person qualifies for an employer exemption under subsection (6) of this section. This restriction shall remain in place for:

(a) If a person's license was suspended pretrial pursuant to Section 11 of this Act, the required suspension period under subsection (6) of Section 11 of this Act;

(b) If a persons' license was suspended pursuant to Section 5 of this Act or Section 10 of this Act:

1. The required suspension period under subsection (1) of Section 5 of this Act; and

2. a. If the maximum suspension period under subsection (1)(a) of Section 5 of this Act has not yet been met, until the Transportation Cabinet has received a declaration from the person's ignition interlock device provider, in a form provided or approved by the cabinet, certifying that none of the violations outlined in subdivision b. of this subparagraph has occurred:

i. For a first offense within a ten (10) year period of subsection (1)(a), (b), (c), (d), or (e) of Section 2 of this Act or for any offense of subsection (1)(f) of Section 2 of this Act, in the ninety (90) consecutive days; and

ii. For all subsequent offenses within a ten (10) year period of subsection (1)(a), (b), (c), (d), or (e) of Section 2 of this Act, one hundred twenty (120) consecutive days;

prior to the date of releasing the ignition interlock device restriction.

b. If any of the following occur, it shall be a violation of the ninety (90) or one hundred twenty (120) consecutive day requirement:

i. Failure to take any random breath alcohol concentration test unless a review of the digital image confirms that the motor vehicle or motorcycle was not occupied by a driver at the time of the missed test;

ii. Failure to pass any random retest with a breath alcohol concentration of 0.02 or lower unless a subsequent test performed within ten (10) minutes registers a breath alcohol concentration lower than 0.02, and the digital image confirms the same person provided both samples;

iii. Failure of the person, or his or her designee, to appear at the ignition interlock device provider when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device;

iv. Failure of the person to pay fees established pursuant to subsection (7) of this section;

v. Tampering with an installed ignition interlock device with the intent of rendering it defective; or

vi. Altering, concealing, hiding, or attempting to alter, conceal, or hide, the person's identity from the ignition interlock device's camera while providing a breath sample;

(c) If a person's license was suspended pursuant to Section 7 of this Act, for the required suspension period under subsection (2) of Section 7 of this Act; or

(d) If a person's license suspension was extended pursuant to Section 16 of this Act, the required suspension period under subsection (1) of Section 16 of this Act.

(5) (a) The time period a person:

1. Holds a valid ignition interlock license pursuant to this section; or

2. Receives alcohol or substance abuse treatment in an inpatient residential facility;

shall apply on a day-for-day basis toward satisfying the suspension periods detailed in subsection (4) of this section.

(b) Except as provided in paragraph (c) of this subsection, the Transportation Cabinet shall give the person a day-for-day credit for any time period the person:

1. Held a valid ignition interlock license; or

2. Received alcohol or substance abuse treatment in an inpatient residential facility.

(c) A person shall not receive day-for-day credit for days the person utilized the employer exemption in accordance with subsection (6) of this section and drove an employer's motor vehicle or motorcycle not equipped with a functioning ignition interlock device.

(6) (a) A person with an ignition interlock license may operate a motor vehicle or motorcycle not equipped with a functioning ignition interlock device if:

1. The person is required to operate an employer's motor vehicle or motorcycle in the course and scope of employment; and

2. The business entity that owns the motor vehicle or motorcycle is not owned or controlled by the person.

(b) To qualify for the employer exemption, the person shall provide the Transportation Cabinet with a sworn statement from his or her employer stating that the person and business entity meet the requirements of paragraph (a) of this subsection.

(7) (a) Except as provided in paragraph (c) of this subsection, an ignition interlock device provider may charge the following fees:

1. An installation fee for an alternative fuel vehicle or a vehicle with a push button starter not to exceed one hundred thirty dollars ($130), an installation fee for all other vehicles not to exceed one hundred dollars ($100);

2. A monthly fee not to exceed one hundred dollars ($100);

3. A removal fee not to exceed thirty dollars ($30);

4. A reset fee not to exceed fifty dollars ($50); or

5. A missed appointment fee not to exceed thirty-five dollars ($35).

(b) A person who is issued an ignition interlock license shall pay fees as established in his or her lease agreement with the ignition interlock device provider for any ignition interlock device installed in his or her motor vehicle or motorcycle. However, the fees shall never be more than allowed under paragraph (a) of this subsection and are subject to paragraph (c) of this subsection.

(c) Any person who has an income:

1. At or below two hundred percent (200%) but above one hundred fifty percent (150%) of the federal poverty guidelines, shall pay only seventy-five percent (75%) of fees established pursuant to paragraph (a) of this subsection;

2. At or below one hundred fifty percent (150%) but above one hundred percent (100%) of the federal poverty guidelines, shall pay only fifty percent (50%) of fees established pursuant to paragraph (a) of this subsection; or

3. At or below one hundred percent (100%) of the federal poverty guidelines, shall pay only twenty-five percent (25%) of fees established pursuant to paragraph (a) of this subsection;

As used in this paragraph, "federal poverty guidelines" has the same meaning as in KRS 205.5621. The Transportation Cabinet shall determine the person's income and where that income places the person on the federal poverty guidelines.

(d) Neither the Commonwealth, the Transportation Cabinet, nor any unit of state or local government shall be responsible for payment of any costs associated with an ignition interlock device.

(8) For a person issued an ignition interlock license under this section who is residing outside of Kentucky, the Transportation Cabinet may accept an ignition interlock certificate of installation from an ignition interlock device provider authorized to do business in the state where the person resides if the ignition interlock device meets the requirements of that state.

➔Section 16. KRS 189A.345 is amended to read as follows:

(1) ***(a)*** No person ***who is issued an ignition interlock license under Section 15 of this Act*** shall operate a motor vehicle or motorcycle without a functioning ignition interlock device ***or at any time, place, or for any purpose other than authorized***~~[when prohibited to do so]~~ under ***Section 15 of this Act***~~[KRS 189A.420]~~.

(b) Any person who violates the provisions of paragraph (a) of this subsection shall be guilty of a Class A misdemeanor, and shall have his or her license suspended by the Transportation Cabinet for the initial period of suspension under Section 5 of this Act for an additional six (6) months.

(2) (a) No person who is issued an ignition interlock license under Section 15 of this Act shall request, permit, or allow another person to:

1. Start a motor vehicle or motorcycle equipped with an ignition interlock device; or

2. Take a subsequent breath alcohol concentration test;

for the purpose of providing an operable motor vehicle or motorcycle for that person subject to the ignition interlock license to drive in violation of Section 15 of this Act.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) ~~[(2)]~~ (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in ***Section 15 of this Act*** ~~[KRS 189A.420]~~.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(4) ~~[(3)]~~ (a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle;~~[or]~~

2. Tamper with an installed ignition interlock device with the intent of rendering it defective***; or***

3. Alter, conceal, hide, or attempt to alter, conceal, or hide, the person's identity from the ignition interlock device's camera while providing a breath sample.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(5) ~~[(4)]~~ (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

(6) (a) No person shall knowingly assist a person who is issued an ignition interlock license in making a false statement in order to qualify for the employer exemption under subsection (6) of Section 15 of this Act.

(b) Any person who violates paragraph (a) of this subsection, is guilty of a Class A misdemeanor and shall have his or her motor vehicle or motorcycle operator's license suspended by the Transportation Cabinet for six (6) months.

➔Section 17. KRS 189A.500 is repealed, reenacted, amended, and renumbered as KRS 189A.350 to read as follows:

(1) ***(a)*** The Transportation Cabinet shall:

1. ~~[(a)]~~ Issue ignition interlock license application forms and other forms necessary for the implementation of ignition interlock licenses;

2.~~[(b)]~~ Create a uniform ***ignition interlock*** certificate of installation to be provided to a defendant by an ignition interlock provider upon installation of ***an***~~[a certified]~~ ignition interlock device;

3.~~[(c)]~~ Create an ignition interlock license***. The ignition interlock license may be a regular driver's or operator's license with an ignition interlock restriction printed on the license***~~[for issuance to any person granted authorization by the court to receive an ignition interlock license]~~;

4. Require a person issued an ignition interlock license to maintain motor vehicle insurance for the duration of his or her ignition interlock license;

5.~~[(d)]~~ Certify ignition interlock devices approved for use in the Commonwealth;

6.~~[(e)]~~ Publish and periodically update on the Transportation Cabinet Web site a list of contact information, including a link to the Web site of each certified ignition interlock device provider, with the entity appearing first on the list changing on a statistically random basis each time a unique visitor visits the list of the approved ignition interlock installers and the approved servicing and monitoring entities;

7. Monitor the ignition interlock device service locations of providers and create a random or designated selection process to require a provider to provide ignition interlock device services in any area of the Commonwealth which the Transportation Cabinet determines is underserved by providers; and

8.~~[(f)]~~ ***Except as provided in paragraph (b) of this subsection,*** promulgate administrative regulations to carry out the provisions of this section.

(b) The Transportation Cabinet shall not create any ignition interlock license or device violations in administrative regulations. The sole ignition interlock license or device violations are established in this chapter.

(2) No model of ignition interlock device shall be certified for use in the Commonwealth unless it meets or exceeds standards promulgated by the Transportation Cabinet pursuant to this section.

(3) In bidding for ***a***~~[the]~~ contract with the Transportation Cabinet to provide ignition interlock devices and servicing or monitoring or both, the ignition interlock ***device*** provider shall take into account that some defendants will not be able to pay the full ***amount***~~[cost]~~ of the ***fees established pursuant to subsection (7)(a) of Section 15 of this Act***~~[ignition interlock device or servicing and monitoring fees]~~.

(4) ~~[Upon June 24, 2015,]~~Any contract between the cabinet and an ignition interlock device provider shall include the following:

(a) A requirement that the provider accept reduced payments as a full payment for all purposes from persons determined to be ***at or below two hundred percent (200%) of the federal poverty guidelines***~~[indigent]~~ by ***the Transportation Cabinet as provided by subsection (7)(c) of Section 15 of this Act***~~[a court authorizing the use of an ignition interlock device pursuant to KRS 189A.420(7)]~~;

(b) A requirement that no unit of state or local government and no public officer or employee shall be liable for the cost of purchasing or installing the ignition interlock device or associated costs;

(c) A requirement that the provider agree to a price for the cost of leasing or purchasing an ignition interlock device and any associated servicing or monitoring fees during the duration of the contract. This price shall not be increased but may be reduced during the duration of the contract;

(d) Requirements and standards for the servicing, inspection, and monitoring of the ignition interlock device;

(e) Provisions for training for service center technicians and clients;

(f) A requirement that the provider electronically transmit reports on driving activity within seven (7) days of servicing an ignition interlock device to the ***Transportation Cabinet***~~[respective court]~~, prosecuting attorney, and defendant;

(g) Requirements for a transition plan for the ignition interlock device provider before the provider leaves the state to ensure that continuous monitoring is achieved and to provide a minimum forty-five (45) day notice to the cabinet of any material change to the design of the ignition interlock device, or any changes to the ***provider's***~~[vendor's]~~ installation, servicing, or monitoring capabilities;

(h) A requirement that, before beginning work, the ignition interlock device provider have and maintain insurance as approved by the cabinet, including ***provider's*** ~~[vendor's]~~ public liability and property damage insurance, in an amount determined by the cabinet, that covers the cost of defects or problems with product design, materials, workmanship during manufacture, calibration, installation, device removal, or any use thereof;

(i) A provision requiring that an ignition interlock provider agree to hold harmless and indemnify any unit of state or local government, public officer, or employee from all claims, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any action or omission by the ignition interlock provider relating to the installation, service, repair, use, or removal of an ignition interlock device;

(j) A requirement that a warning label to be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person who tampers with, circumvents, or otherwise misuse the device commits a violation of law under KRS 189A.345; ~~[and]~~

(k) A requirement that a provider will remove an ignition interlock device without cost, if the device is found to be defective***;***

(l) A requirement that a provider have at least one (1) ignition interlock device service location in each Transportation Cabinet highway district; and

(m) A requirement that a provider accept assignments to provide ignition interlock device services in areas of the Commonwealth which the Transportation Cabinet determines are underserved by providers in accordance with subsection (1) of this section.

➔Section 18. KRS 189A.420 is repealed, reenacted, amended, and renumbered as KRS 189A.360 to read as follows:

~~[(1) A person shall be eligible for an ignition interlock license:~~

~~(a) During a period of license suspension under this chapter or upon the conclusion of a license revocation period pursuant to KRS 189A.340; or~~

~~(b) If he or she was convicted pursuant to KRS 189A.010(1)(a), (b), (e), or (f) and has enrolled in and is actively participating or has completed, alcohol or substance treatment.~~

~~(2) Before authorizing a person to apply for an ignition interlock license, the court shall order the person to:~~

~~(a) Provide the court with proof of motor vehicle insurance;~~

~~(b) If necessary, provide the court with a written, sworn statement from his employer, on a form provided by the cabinet, detailing the necessity for the defendant to use the employer's motor vehicle in his work at the direction of the employer during working hours, and acknowledging that the person is restricted from using an employer's nonignition interlock-equipped vehicle until the expiration of thirty (30) days from the date of issuance of an ignition interlock license for a first offense or twelve (12) months from the date of issuance of an ignition interlock license for a second or subsequent offense in violation of KRS 189A.010; and~~

~~(c) Provide to the court such other information as may be required by administrative regulation of the Transportation Cabinet.~~

~~(3) No court shall grant authorization for a person to operate only motor vehicles or motorcycles equipped with a functioning ignition interlock device, unless and until the person:~~

~~(a) Provides proof that the person has been issued or has filed a completed application with the Transportation Cabinet for issuance of an ignition interlock license pursuant to KRS 189A.500; and~~

~~(b) Provides a certificate of installation of an ignition interlock device issued by a certified ignition interlock device provider pursuant to KRS 189A.500.~~

~~(4) Whenever the court grants authorization to apply for an ignition interlock license pursuant to this section, the court through court order, shall:~~

~~(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device;~~

~~(b) Require that within the first thirty (30) days of installation of an ignition interlock device and every sixty (60) days thereafter, the person shall have the device serviced pursuant to the administrative regulations promulgated by the cabinet under KRS 189A.500; and~~

~~(c) If the requirements of paragraph (b) of subsection (2) of this section are met, allow that after the expiration of thirty (30) days from the date of issuance of an ignition interlock license for a first offense or twelve (12) months from the date of issuance of an ignition interlock license for a second or subsequent offense in violation of KRS 189A.010, the person may use an employer's nonignition interlock equipped vehicle as part of the employee's job duties if the person is to be authorized by the cabinet to use a nonignition interlock vehicle owned or leased by the employer as part of the employee's job duties.~~

~~(5) Upon authorizing a person to operate only motor vehicles or motorcycles equipped with a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:~~

~~(a) Transmit its order and other appropriate information to the Transportation Cabinet;~~

~~(b) Direct that the Transportation Cabinet records reflect:~~

~~1. That during the applicable suspension or revocation period or upon the conclusion of a license revocation period, the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device;~~

~~2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in subsection (2)(b) of this section; and~~

~~3. Direct the Transportation Cabinet to issue to any person restricted pursuant to this section an ignition interlock license that states the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in subsection (2)(b) of this section applies, the license shall indicate the exception.~~

~~(6)]~~All persons applying for an ignition interlock license shall pay a nonrefundable application fee to the Transportation Cabinet in an amount not to exceed the actual cost to the cabinet for issuing the ignition interlock license, but not to exceed two hundred dollars ($200).

~~[(7) The court shall require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. If the court determines that a defendant is indigent, the court may, based on a sliding scale established by the Supreme Court of Kentucky by rule, require the defendant to pay the costs imposed under this section in an amount that is less than the full amount of the costs associated with the lease, purchase, or installation of an ignition interlock device and associated servicing and monitoring fees. If a defendant pays to an ignition interlock provider the amount ordered by the court under this subsection, the provider shall accept the amount as payment in full. Neither the Commonwealth, Transportation Cabinet, or any unit of state or local government shall be responsible for payment of any costs associated with an ignition interlock device.]~~

➔SECTION 19. A NEW SECTION OF KRS 189A.005 TO 189A.360 IS CREATED TO READ AS FOLLOWS:

(1) (a) In every instance where the Transportation Cabinet takes action which affects:

1. A person's eligibility for an ignition interlock license;

2. The calculation of a person's ninety (90) or one hundred twenty (120) consecutive days;

3. The calculation of a person's day-for-day credit;

4. A person's eligibility for an employer exemption; or

5. The calculation of a person's income and where that income places the person on the federal poverty guidelines;

under Section 15 of this Act, that action shall include a letter that notifies the person of the action, informs the person of the basis of the action, and informs the person of his or her right to request an informal hearing within twenty (20) days of receiving the notice.

(b) The informal hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet.

(c) The informal hearing shall be conducted by a hearing officer designated by the commissioner and shall adhere to the requirements of KRS 13B.090. At the hearing, the complainant shall be given a statement of why the cabinet took the action, and both the cabinet and the complainant shall have the right to be advised by an attorney with the burden of proof resting with the complainant. After the hearing, the hearing officer shall prepare a written report of the hearing with a recommended decision to the commissioner. The final decision shall be made by the commissioner. As used in this paragraph, "commissioner" means the commissioner of the cabinet's Office of Vehicle Regulation.

(2) An aggrieved party may file a request for reconsideration of the commissioner's final decision with the cabinet's Office of Legal Services within twenty (20) days after receipt of the informal hearing decision. The Office of Legal Services shall issue a decision within twenty (20) days after receipt of the request.

(3) An aggrieved party may appeal the Office of Legal Services' decision within twenty (20) days after receipt of the decision, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

➔Section 20. KRS 189A.400 is amended to read as follows:

(1) The ***sentencing court***~~[District Court]~~ shall have~~[exclusive]~~ jurisdiction over the issuance of~~[ignition interlock and]~~ hardship licenses.

(2) The ***Commonwealth's or*** county attorney shall review applications submitted to the ***sentencing court***~~[District Court]~~ and may object to the issuance of~~[ignition interlock and]~~ hardship licenses.

➔Section 21. KRS 189A.410 is amended to read as follows:

(1) At any time ***during***~~[following]~~ the~~[expiration of the minimum license]~~ suspension periods enumerated in:

(a) ***Section 5 of this Act for violation of subsection (1)(c) or (d) of Section 2 of this Act***~~[KRS 189A.010(6)]~~; or

(b) ***Section 7 of this Act relating to a violation of subsection (1)(c) or (d) of Section 2 of this Act***~~[KRS 189A.070 for a violation of:~~

~~1. KRS 189A.010(1)(c) or (d); or~~

~~2. KRS 189A.010(1)(a), (b), or (e) for a first offense within a ten (10) year period if, at the time of the offense, none of the aggravating circumstances enumerated under KRS 189A.010(11) were present while the person was operating or in control of a motor vehicle]~~;

the court may grant the person hardship driving privileges for the balance of the suspension period imposed by the ***Transportation Cabinet***~~[court, upon written petition of the defendant]~~, if the court finds reasonable cause to believe that revocation would hinder the person's ability to continue his ***or her*** employment; continue attending school or an educational institution; obtain necessary medical care; attend driver improvement, alcohol, or substance abuse education programs; or attend court-ordered counseling or other programs.

(2) Before granting hardship driving privileges, the court shall order the person to:

(a) Provide the court with proof of motor vehicle insurance;

(b) If necessary, provide the court with a written, sworn statement from his or her employer, on a form provided by the cabinet, detailing his or her job, hours of employment, and the necessity for the person to use the employer's motor vehicle either in his or her work at the direction of the employer during working hours, or in travel to and from work if the license is sought for employment purposes; and

(c) If the person is self-employed, to provide the information required in paragraph (b) of this subsection together with a sworn statement as to its truth;

(d) Provide the court with a written, sworn statement from the school or educational institution which he attends, of his or her class schedule, courses being undertaken, and the necessity for the person to use a motor vehicle in his travel to and from school or other educational institution if the license is sought for educational purposes. Licenses for educational purposes shall not include participation in sports, social, extracurricular, fraternal, or other noneducational activities;

(e) Provide the court with a written, sworn statement from a physician, or other medical professional licensed but not certified under the laws of Kentucky, attesting to the person's normal hours of treatment, and the necessity to use a motor vehicle to travel to and from the treatment if the license is sought for medical purposes;

(f) Provide the court with a written, sworn statement from the director of any alcohol or substance abuse education or treatment program as to the hours in which the person is expected to participate in the program, the nature of the program, and the necessity for the person to use a motor vehicle to travel to and from the program if the license is sought for alcohol or substance abuse education or treatment purposes;

(g) Provide the court with a copy of any court order relating to treatment, participation in driver improvement programs, or other terms and conditions ordered by the court relating to the person which require him or her to use a motor vehicle in traveling to and from the court-ordered program. The judge shall include in the order the necessity for the use of the motor vehicle; and

(h) Provide to the court any information as may be required by administrative regulation of the Transportation Cabinet.

(3) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

➔Section 22. KRS 189A.440 is amended to read as follows:

(1) No person who is issued~~[an ignition interlock license under KRS 189A.420 or]~~ a hardship license shall operate a motor vehicle at any time, place, or for any purpose other than those authorized upon the face of the~~[ignition interlock or]~~ hardship license issued under KRS 189A.410.

(2) Any defendant who violates the provisions of subsection (1) of this section is guilty of a Class A misdemeanor, and shall have his ***or her*** license ***suspended by the Transportation Cabinet***~~[revoked]~~ for the initial period of ***suspension under Section 5 of this Act for***~~[revocation plus]~~ an additional six (6) months.

(3) Any defendant or any other person who knowingly assists the defendant in making a false application statement is guilty of a Class A misdemeanor and shall have his ***or her*** motor vehicle or motorcycle operator's license ***suspended by the Transportation Cabinet***~~[revoked]~~ for six (6) months.

➔Section 23. KRS 186.550 is amended to read as follows:

(1) ***Except for offenses committed under KRS Chapter 189A,*** the clerk of any court having jurisdiction over offenses committed under motor vehicle laws shall report upon a form furnished by the cabinet the conviction, pleas or forfeiture of bond arising under motor vehicle laws, to the cabinet within fifteen (15) days.

(2) The court shall take up the motor vehicle operator's license certificate of a person convicted of any of the offenses for which mandatory revocation is provided by KRS 186.560 and have it immediately forwarded to the cabinet with the report covering the conviction.

➔Section 24. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his or her:

(a) Conviction of any of the following offenses:

1. Murder or manslaughter resulting from the operation of a motor vehicle;

2. Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

3. Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

4. Any felony in the commission of which a motor vehicle is used;

5. Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

6. Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

7. Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

8. Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

9. Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085(4); and

10. Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410; or

(b) Being found incompetent to stand trial under KRS Chapter 504.

(2) If the person convicted of any offense named in subsection (1) of this section or who is found incompetent to stand trial is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet, upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied, or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a)1. of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), (8), and (9) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year. If the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or 244.085(4) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension~~[or revocation]~~ pursuant to KRS ***Chapter 189A***~~[189A.070, 189A.080, and 189A.090]~~, the person whose license is suspended~~[or revoked]~~ shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended~~[or revoked]~~ licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(a)8. or 9. of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.

(9) A revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section due to a person being found incompetent to stand trial shall extend until the person is found competent to stand trial or the criminal case is dismissed.

➔Section 25. The following KRS sections are repealed:

189A.080 Surrender and forwarding of suspended or revoked licenses.

189A.320 Court reporting of convictions and license revocations to Transportation Cabinet.

189A.430 Permit card and window decal for hardship driving privileges -- Requirement to carry permit -- Penalty for failure to display decal.

189A.450 Service fee for hardship driving privileges.

➔Section 26. This Act takes effect on July 1, 2020.

Signed by Governor March 26, 2019.

CHAPTER 104

(SB 84)

AN ACT relating to licensed certified professional midwives.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act:

(1) "APRN-designated certified nurse-midwife" means an advanced practice registered nurse as defined in KRS 314.011 who is designated by the board as a certified nurse-midwife;

(2) "Certified professional midwifery services":

(a) Means the provision of care to a person during a low-risk pregnancy, childbirth, and the postpartum period, and the care of a normal newborn immediately following birth;

(b) Includes collaboration with other appropriate licensed health care providers as specified by the board by administrative regulation or when otherwise indicated; and

(c) Does not have the same meaning as the practice of an APRN-designated certified nurse-midwife, or the practice of medicine or osteopathy as defined in Section 12 of this Act;

(3) "Collaboration" means the process by which a licensed certified professional midwife and a physician or other appropriate healthcare provider jointly manage the care of a client, the requirements for which shall be defined by the board;

(4) "Consultation" means the process by which a licensed certified professional midwife directs the client to a physician or other appropriate licensed healthcare provider to render an opinion regarding the management of a specific problem or condition, the requirements for which shall be defined by the board;

(5) "Council" means the Licensed Certified Professional Midwives Advisory Council created in Section 2 of this Act;

(6) "Licensed certified professional midwife" means a person who is certified by the North American Registry of Midwives and issued a license by the board to provide certified professional midwifery services in the Commonwealth of Kentucky;

(7) "Referral" means the process by which a licensed certified professional midwife arranges for an accepting physician or other appropriate licensed healthcare provider to assume primary management responsibility for the condition requiring referral, which shall not preclude the licensed certified professional midwife from continuing in the provision of care as mutually agreed upon with the accepting provider, as regulated by the board; and

(8) "Transfer" means the act of transporting a client to a licensed healthcare facility providing a higher level of care.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The Licensed Certified Professional Midwives Advisory Council is hereby created, under the Board of Nursing. The council shall at regular intervals and guided by newly available evidence in peer-reviewed medical literature, advise the board on promulgating administrative regulations regarding qualifications,

standards for training, competency determination of licensed certified professional midwives, any necessary statutory changes, and all other matters relating to licensed certified professional midwives.

(2) The council shall be appointed by the board and shall consist of:

(a) One (1) member of the board, who shall be a nonvoting, ex officio member and serve as the liaison between the chair of the council and the board;

(b) Three (3) certified professional midwives who shall be licensed certified professional midwives within six (6) months of the license availability;

(c) Two (2) APRN-designated certified nurse-midwives licensed in Kentucky;

(d) Two (2) obstetricians licensed in Kentucky;

(e) One (1) practicing neonatal health care provider licensed in Kentucky; and

(f) One (1) member of the general public.

The chair of the council shall be elected annually by members of the council.

(3) The board may solicit nominations for the council from interested parties or organizations and shall give consideration to nominees who have experience collaborating with providers of, providing, or utilizing out-of-hospital midwifery services.

(4) The board shall specify the terms for the council members, not to exceed four (4) years. Members shall serve at the discretion of the board, may be reappointed at the end of their terms, and shall receive reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

(5) A licensed certified professional midwife has the same authority and responsibility as appropriate licensed health care providers regarding following public health laws, reporting reportable diseases and conditions, controlling and preventing communicable diseases, recording of vital statistics, obtaining health histories, and performing physical examinations, except that this authority is limited to activity consistent with provision of services authorized by Sections 1 to 8 of this Act.

(6) A licensed certified professional midwife shall keep appropriate medical records regarding treatment and outcomes as required by the board by administrative regulation.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The board shall promulgate administrative regulations, based upon recommendations of the council, in accordance with KRS Chapter 13A to:

(1) Establish required standards for training programs for licensed certified professional midwives;

(2) Establish licensing requirements for licensed certified professional midwives, including but not limited to:

(a) Educational requirements that are consistent with United States educational accreditation standards and the United States Midwifery Education, Regulation, and Association statement on the licensure of certified professional midwives;

(b) Competency validation certified by a national organization or agency that meets United States accreditation standards and recognized by the board; and

(c) Licensed certified professional midwife preceptor programs;

(3) Establish statewide requirements for licensed certified professional midwives and hospitals regarding the transfer of care from a licensed certified professional midwife to a hospital as developed by the Transfer Guidelines Work Group established in Section 8 of this Act;

(4) Establish provisions for disciplinary actions for licensed certified professional midwives;

(5) Establish fees for the initial license not to exceed one thousand dollars ($1,000), renewal of a license, reinstatement of a license, and other fees as may be necessary, for licensed certified professional midwives;

(6) Establish requirements for informed consent by individuals receiving services from a licensed certified professional midwife, which shall include:

(a) A description of the licensed certified professional midwife's education and credentials;

(b) A description of the scope of practice of certified professional midwifery permitted under Sections 1 to 8 of this Act, including a summary of the limitations of the skills and practices of a licensed certified professional midwife;

(c) Instructions for obtaining a copy of the administrative regulations promulgated by the board pursuant to this section;

(d) Instructions for filing complaints with the board;

(e) A written protocol for emergencies, including transfer to a higher level of care;

(f) A description of the procedures, benefits, and risks of birth in the client's chosen environment, primarily those conditions that may arise during delivery;

(g) Disclosure of professional liability insurance held by the licensed certified professional midwife;

(h) A summary of the requirements for consultation, referral or transfer of care as promulgated by administrative regulation by the board under this section;

(i) Procedures established by the licensed certified professional midwife for referral or transfer of care of a client to a physician or other appropriate healthcare providers;

(j) Procedures established by the licensed certified professional midwife for consultation or collaboration; and

(k) Any other information deemed necessary by the board for the patient to provide informed consent for care by a licensed certified professional midwife;

(7) Establish a list of medical tests that a licensed certified professional midwife may order when providing certified professional midwifery services that is limited to only those tests that are indicated and approved for the safe conduct of pregnancy, labor and birth, and care of a client and not intended for the diagnosis or management of any acute condition unrelated to pregnancy;

(8) Establish a formulary of legend medications that a licensed certified professional midwife may obtain, transport, and administer when providing certified professional midwifery services that is limited to only those medications that are indicated and approved by the board for the safe conduct of pregnancy, labor and birth, and immediate care of the newborn, immediate management of obstetrical emergencies, or performance of routine prophylactic measures, and that the licensed certified professional midwife is approved to administer and monitor. This subsection shall not be interpreted to bestow prescriptive authority, and the formulary shall not include Schedule II, III, IV, or V drugs as defined in the Controlled Substances Act, 21 U.S.C. secs. 812 et seq.;

(9) Further regulate, as necessary, the provision of certified professional midwifery services;

(10) Require licensed certified professional midwives to report to the board annually as specified by the board the following information regarding cases in which the licensed certified professional midwife provided services when the intended place of birth at the onset of care was in an out-of-hospital setting:

(a) The total number of clients provided certified professional midwife services at the onset of care;

(b) The number of live births attended as a licensed certified professional midwife;

(c) The number of cases of fetal demise, newborn deaths, and maternal deaths attended as a licensed certified professional midwife at the discovery of the demise or death;

(d) The number, reason for, and outcome of each transport of a client in the antepartum, intrapartum, or immediate postpartum periods;

(e) A brief description of any complications resulting in the morbidity or mortality of a mother or a newborn;

(f) Planned location of delivery and the actual location of delivery; and

(g) Any other information deemed necessary by the board;

(11) Require licensed certified professional midwives to report to the board, within thirty (30) days of the occurrence, a case of newborn or maternal death attended by a licensed certified professional midwife at the discovery of the death; and

(12) Define a list of conditions requiring collaboration, consultation, or referral of a client to a physician or other appropriate licensed health care provider, and the process for such collaboration, consultation, or referral.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The board may require a criminal background investigation of an applicant for a license as a licensed certified professional midwife by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation.

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

(1) It shall be unlawful for any person to provide certified professional midwifery services as defined in Section 1 of this Act unless that person is a licensed certified professional midwife currently issued a license by the board in accordance with Sections 1 to 8 of this Act or is an appropriate licensed health care provider providing services that are within his or her scope of practice.

(2) It shall be unlawful for any person to hold herself or himself out as a licensed certified professional midwife or other skilled birth attendant authorized to provide prenatal care or manually assist in the delivery of an infant, or to provide the services defined in subsection (2) of Section 1 of this Act in Kentucky unless he or she has been issued a license by the board in accordance with Sections 1 to 8 of this Act.

(3) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school or program of certified professional midwifery unless the school or program has been approved by the board to do so.

(4) It shall be unlawful for any licensed certified professional midwife or employer of a licensed certified professional midwife having knowledge of facts to refrain from reporting to the board a licensed certified professional midwife who violates any provision set forth in administrative regulation for licensed certified professional midwives.

(5) It shall be unlawful for any person to provide certified professional midwifery services who is listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(6) Nothing in Sections 1 to 8 of this Act shall prohibit a traditional birth attendant providing midwifery services without a license if the traditional birth attendant has cultural or religious traditions that have historically included the attendance of traditional birth attendants at birth, and the birth attendant serves only women and families in that distinct cultural or religious group.

(7) Nothing in Sections 1 to 8 of this Act shall prohibit an appropriate licensed health care provider or other person from providing emergency care, including care of a precipitous delivery.

(8) In accordance with KRS 311.723, a licensed certified professional midwife issued a license by the board in accordance with Sections 1 to 8 of this Act shall not perform an abortion.

(9) Nothing in Sections 1 to 8 of this Act shall prohibit a person from providing self -care, or uncompensated care to a friend or family member, as long as the person does not hold himself or herself out to be a midwife or provider of certified professional midwifery services as defined under Section 1 of this Act.

(10) Nothing in Sections 1 to 8 of this Act shall prohibit an employee or other individual who is assisting, and under the direct supervision of, a licensed certified professional midwife from performing activities or functions that are delegated by the licensed certified professional midwife and are within the licensed certified professional midwife's scope of practice as authorized by the board.

(11) Nothing in Sections 1 to 8 of this Act shall prohibit an individual from performing activities or functions that are delegated by the licensed certified professional midwife if that individual is a student of midwifery in a training program operating as authorized by the board, and is under the direct supervision of a qualified preceptor as authorized by the board.

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

(1) Within one (1) year of the effective date of this Act, the council shall make recommendations to the board for the promulgation of administrative regulations by the board regarding requirements for the management of clients who may have a condition that precludes the clients from being considered at low risk of an adverse outcome for the mother, her fetus, or her newborn. These recommendations shall include:

(a) A regulatory framework to support consultation and collaboration between licensed certified professional midwives and other appropriate licensed health care providers with expertise in obstetrical and neonatal care, in order to optimize obstetrical and neonatal outcomes in whatever setting a client chooses for birth. The regulatory framework shall specify:

1. Processes and infrastructure to facilitate collaboration and consultation with other licensed healthcare providers who possess the appropriate medical expertise;

2. Processes and infrastructure to facilitate co-management with, or transfer of primary management responsibility to, other licensed healthcare providers who possess the appropriate medical expertise;

3. Processes and infrastructure for transfer of clients to facilities with a higher level of care, as developed by the Transfer Guidelines Work Group established in Section 8 of this Act, and as updated by the council;

4. Processes for the provision of required or routinely recommended screening and disease prevention measures, if not provided directly by the licensed certified professional midwife; and

5. Other collaborative processes deemed necessary by the council or the board to optimize obstetrical and neonatal outcomes;

(b) A list of conditions or symptoms associated with a risk of death or serious permanent harm affecting a mother, fetus, or newborn, as assessed by a licensed certified professional midwife exercising reasonable skill and knowledge, and:

1. Requirements for collaborative management with, or referral of primary management responsibility to, a physician or other appropriate licensed healthcare provider, of a client with conditions or symptoms specified under this paragraph, to protect the health and safety of a mother, fetus or newborn. Separate regulatory requirements shall be developed for each or any condition on the list, if clinically appropriate; and

2. Requirements for management of a client with conditions or symptoms specified under this paragraph who refuses to consent to recommendations intended to prevent death or serious permanent harm, including requirements for informed refusal by the client. The requirements for informed refusal shall be tailored to the specific condition or symptom, and shall reflect maximal effort to protect the life and health of the mother, her fetus, and her newborn; and

(c) A list of conditions or symptoms associated with a more than minimal risk of adversely affecting a mother, fetus, or newborn, but not a significant risk of death or serious permanent harm, as assessed by a licensed certified professional midwife exercising reasonable skill and knowledge, and:

1. Requirements for consultation, collaborative management, or referral of primary management responsibility of a client with conditions or symptoms specified under this paragraph, for each condition or symptom on the list, to ensure the health and safety of a mother, fetus, or newborn; and

2. Requirements for documentation of an informed refusal by a client with conditions or symptoms specified under this paragraph of recommended consultation, referral of care, or other management, including the information to be provided to a client that is necessary to enable informed refusal of recommended care.

(2) The council's recommendations shall be considered by the board to form the basis for any requirements or restrictions imposed by the board on the provision of certified professional midwifery services to a client whose condition is not classified as low-risk. The recommendations shall be based on evolving medical evidence published in peer-reviewed medical literature and with consideration to the likelihood of serious harm or death to the mother or newborn.

(3) Until such time as the council has conveyed superseding recommendations to the board and the board has promulgated superseding administrative regulations, the following shall be enforced by the board:

(a) If on initial or subsequent assessment, one (1) of the following conditions exists, the licensed certified professional midwife shall arrange for consultation and either collaboration or referral in accordance with Sections 1 to 8 of this Act, and document that recommendation in the licensed certified professional midwife's record:

1. Complete placenta previa, or partial placenta previa persisting after twenty eight (28) weeks;

2. HIV infection;

3. Cardiovascular disease, including hypertension;

4. Severe psychiatric illness that may result in self-harm or harm to others;

5. History of cervical incompetence;

6. Pre-eclampsia or eclampsia;

7. Intrauterine growth restriction, oligohydramnios or polyhydramnios in the current pregnancy;

8. Known potentially serious anatomic fetal abnormalities;

9. Any type of diabetes requiring insulin or other medication for management;

10. Gestational age greater than forty-three (43) weeks; or

11. Any other condition or symptom which could threaten the life of the mother or fetus, as assessed by a licensed certified professional midwife exercising reasonable skill and knowledge;

(b) The licensed certified professional midwife may continue to participate in the care of a client requiring transfer, in a collaborative fashion and as mutually agreed upon with the accepting physician, to the extent permitted by hospital regulations and if it is beneficial to the client. If a client with a condition listed in paragraph (a) of this subsection declines to accept a medically indicated consultation or referral, the licensed certified professional midwife shall document such refusal in writing and shall endeavor to transition the client to an appropriate higher level of care. If the condition mandating transfer occurs during labor or delivery, or the client is otherwise acutely in jeopardy but refuses transfer, then the midwife shall call 911 and provide care at least until relieved by another appropriate licensed health care provider; and

(c) If on initial or subsequent assessment, one (1) of the following conditions exists, the midwife shall arrange for consultation and either collaboration or referral in accordance with Sections 1 to 8 of this Act, and document that recommendation in the midwifery record:

1. Prior cesarean section or other surgery resulting in a uterine scar;

2. Multifetal gestation;

3. Non-cephalic presentation after thirty-six (36) weeks gestation; and

4. History of severe shoulder dystocia as documented by objective findings.

(4) The board shall, at the earliest opportunity, promulgate administrative regulations specific to the conditions listed in paragraph (c) of subsection (3) of this section, including the minimum requirements for informed refusal by the client of otherwise mandatory consultation and either collaboration or referral.

(5) If the client has complied with administrative regulations promulgated by the board for informed refusal, then the licensed certified professional midwife may pursuant to subsection (4) of this section, continue to assume primary management responsibility for the client unless and until the client subsequently consents to collaborative care or referral.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 8 of this Act is intended to expand liability. In the event of an action for injury or death due to any act or omission of a licensed certified professional midwife licensed pursuant to Sections 1 to 8 of this Act, the liability of any other licensed healthcare provider shall be limited to their negligent acts and omissions that violate their standards of care according to existing law.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The Transfer Guidelines Work Group is hereby established as an independent entity to develop statewide requirements for licensed certified professional midwives and hospitals which shall be based upon evidence in peer-reviewed medical literature and accepted best practice standards, regarding the process of transfer of care from a licensed certified professional midwife to a hospital. The scope of the Transfer Guidelines Work Group shall include procedures that promote the safe and timely transfer of mothers or newborns to facilities that can provide a higher level of care when needed, and to ensure the complete and timely transmission of all necessary

information required to satisfactorily care for a mother or newborn requiring transfer. The work group shall select a chair from among the members. The work group shall meet as necessary and submit the developed statewide requirements agreed to unanimously by the work group to the board within one (1) year of the effective date of this Act. The board shall promulgate administrative regulations to implement the requirements developed by the work group. The work group shall cease to exist after the developed requirements have been submitted to the board unless the board directs its continuance. The members of the work group shall not be paid or reimbursed for travel or other expenses. The work group shall consist of the following members:

(1) Two (2) individuals to be appointed by the Kentucky Hospital Association;

(2) Three (3) individuals appointed by the Kentucky Chapter of the National Association of Certified Professional Midwives;

(3) Two (2) individuals appointed by the Kentucky Medical Association who have expertise in obstetrical or neonatal care;

(4) One (1) individual appointed by the Kentucky Home Birth Coalition; and

(5) One (1) member of the board who shall be a nonvoting, ex officio member and who shall serve as the liaison between the work group chair and the board.

➔Section 9. KRS 164.298 is amended to read as follows:

(1) The governing board as defined in KRS 164.001 of each eligible postsecondary education institution and college as defined in KRS 164.945 that offers an advanced practice doctoral degree in nursing shall be accredited by a national nursing accrediting body that includes but is not limited to the Accreditation Commission for Education in Nursing, the National League for Nursing Commission for Nursing Education Accreditation, the Council on Accreditation of Nurse Anesthesia Educational Programs, the Accreditation Commission for Midwifery Education, or the Commission on Collegiate Nursing Education and with minimal education and licensure standards for admission to and graduation from an advanced practice doctoral program in nursing.

(2) Each university offering an advanced nursing practice doctoral program shall refer to the degree as the "doctor of nursing practice," with the degree being abbreviated as "DNP." Any advertisement about the advanced nursing practice doctoral program shall not refer to graduates using the term "doctor." Graduates of the program shall accurately portray their academic credentials as well as their registered nurse and advanced practice registered nurse credentials, if applicable, subject to sanction under KRS 311.375(4).

(3) A licensed certified professional midwife as defined in Section 1 of this Act shall not have the same meaning as an advanced practice registered nurse with a designation by the Board of Nursing as a certified nurse-midwife.

➔Section 10. KRS 211.180 (Effective July 1, 2019) is amended to read as follows:

(1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health and Family Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and comprehensive programs relating to all matters of public health, including but not limited to the following matters:

(a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control and Prevention of the United States Public Health Service. No later than October 1, 2004, the cabinet shall require reporting of cases of human immunodeficiency virus infection by reporting of the name and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in KRS 214.645. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human

immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient;

(c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;

(e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children; ***and***

(f) ~~[The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and~~

~~(g)]~~Protection and improvement of the health of the people through better nutrition.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed costs of the program to the cabinet to cover inspector hours, but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year, travel pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

➔Section 11. KRS 311.271 is amended to read as follows:

(1) No person shall be eligible for licensure to practice any healing art in this state unless and until he furnishes satisfactory evidence to the appropriate licensing agency, that prior to being licensed by the respective state agency that he was credited with not less than sixty (60) transferable units of study by a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency recognized by the Southern Association of Colleges and Schools or any successor to the powers of either; provided, however, that the transferability of credits from colleges and universities located outside the United States and Canada shall be determined by the appropriate licensing agency.

(2) (a) The term "healing art," as used herein, includes the practices of medicine, osteopathy, dentistry, chiropody (podiatry), optometry, and chiropractic, but does not include the practices of Christian Science or midwifery ***or the provision of certified professional midwifery services by a licensed certified professional midwife as defined in Section 1 of this Act***.

(b) The term "transferable units of study" means semester hour (or equivalent) credits and may include advance placement credits.

(3) This section shall not apply to any student who is enrolled in any school of medicine, osteopathy, dentistry, chiropody (podiatry), optometry, or chiropractic on June 13, 1968, nor shall it affect the right of any person who is presently licensed to practice a healing art in this state, to have his license renewed upon compliance with all other requirements of law.

➔Section 12. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the practice of genetic counseling as defined in KRS 311.690, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery***, or the provision of certified professional midwifery services by a licensed certified professional midwife as defined in Section 1 of this Act***[~~ by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health and Family Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers~~]**;**

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;

(18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;

(19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);

(20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;

(21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;

(22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;

(23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;

(24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;

(25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;

(26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;

(27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;

(28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; and

(29) "Special faculty license" means a license to practice medicine that is limited to the extent that this practice is incidental to a necessary part of the practitioner's academic appointment at an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

If any provision of Sections 1 to 8 of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Sections 1 to 8 of this Act that can be given effect without the invalid provision or application, and to this end the provisions of Sections 1 to 8 of this Act are severable.

Signed by Governor March 26, 2019.

CHAPTER 105

(HB 84)

AN ACT relating to caller identification.

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

➔Section 1. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation through telecommunications services or interconnected Voice over Internet Protocol or VoIP service to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) ***(a) Causing misleading caller identification information to be transmitted to users of caller identification services, or to otherwise misrepresent the origin of the telephone solicitation.***

(b) 1. This subsection shall not apply to solicitations which block caller identification, nor shall it apply to solicitations in which the name and telephone number of the party on whose behalf the call is made is substituted for the name and telephone number of the actual caller~~[Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call, including but not limited to through the use of telecommunications services or interconnected Voice over Internet Protocol or VoIP, to knowingly cause any caller identification service to transmit misleading or inaccurate caller identification information with the intent to defraud or cause harm to another person or to wrongfully obtain anything of value]~~; ***and***

2. This subsection shall not apply to a telecommunications, broadband, or Voice over Internet Protocol service provider that is:

a. Acting in the telecommunications, broadband, or Voice over Internet Protocol service provider's capacity as an intermediary for the transmission of telephone service between the caller and the recipient;

b. Providing or configuring a service or service feature as requested by the customer;

c. Acting in a manner that is authorized or required by applicable law; or

d. Engaging in other conduct that is necessary to provide service;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the national Do Not Call Registry maintained by the United States Federal Trade Commission;

(16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;

(17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;

(18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or

(19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

➔Section 2. KRS 367.46999 is amended to read as follows:

(1) Any person, including, but not limited to, a merchant, a telemarketer, a salesperson, agent or representative of the merchant, or an independent contractor, who knowingly violates any provision of KRS 367.46951 to 367.46999 or engages in any act, practice, or course of business which operates or would operate as fraud or deceit upon any person in connection with a sale shall be guilty of a Class D felony, except that any person who violates KRS 367.46955(7) to (16) shall be guilty of***:***

(a) A Class B misdemeanor for the first offense ***that shall be punishable by imprisonment of not more than ninety (90) days, or a fine of no more than five hundred dollars ($500), or both;*** and

(b) A Class A misdemeanor for any subsequent offense ***that shall be punishable by imprisonment of not more than one (1) year, or a fine of not more than five thousand dollars ($5000), or both***.

(2) Notwithstanding any other provision of law, in addition to the penalties provided in this section, any person found guilty of violating KRS 367.46955(9) shall ~~[~~:

~~(a) Be fined no less than five hundred dollars ($500) for the first offense and one thousand dollars ($1,000) for any subsequent offense; and~~

~~(b)]~~pay restitution of any financial benefit secured through conduct proscribed by KRS 367.46955(9).

(3) The Office of the Attorney General shall have concurrent enforcement powers as to such felonies and misdemeanors.

(4) (a) Notwithstanding other criminal and administrative remedies, a person or class of persons alleging:

1. Receipt of a call in violation of subsection (9) of Section 1 of this Act; or

2. That a number assigned to the person was misleadingly transmitted as a caller identification number by a solicitor in violation of subsection (9) of Section 1 of this Act;

may bring a civil action in the county where the plaintiff resides or has his or her principal place of business, against any person who is responsible for or who knowingly participated in the violation.

(b) The civil action brought under paragraph (a) of this subsection may be for:

1. Appropriate injunctive relief;

2. Actual damages;

3. Actual expenses incurred, including court costs and attorney's fees; and

4. Punitive damages.

➔Section 3. KRS 367.667 is amended to read as follows:

(1) The following acts and practices in the conduct of charitable solicitation shall be considered unfair, false, misleading, or deceptive in violation of KRS 367.170:

(a)~~[(1)]~~ Representing or leading anyone in any manner to believe that a solicitation is for or on behalf of a charitable organization; or utilizing any emblem, device, or printed matter belonging to or associated

with a charitable organization; or otherwise representing that any part of the contributions received will be donated to a charitable organization without first being authorized in writing to do so by the charitable organization;

(b) ~~[(2)]~~ Utilizing a name, symbol, or statement so closely related or similar to that used by another charitable organization, public official, or public agency that its use would tend to confuse or mislead a solicited person;~~[or]~~

(c) ~~[(3)]~~ ***1. Causing misleading caller identification information to be transmitted to users of caller identification services, or to otherwise misrepresent the origin of the charitable telephone solicitation.***

2. This paragraph shall not apply to solicitations which block caller identification, nor shall it apply to solicitations in which the name and telephone number of the party on whose behalf the call is made is substituted for the name and telephone number of actual caller;

3. This paragraph shall not apply to a telecommunications, broadband, or Voice over Internet Protocol service provider that is:

a. Acting in the telecommunications, broadband, or Voice over Internet Protocol service provider's capacity as an intermediary for the transmission of telephone service between the caller and the recipient;

b. Providing or configuring a service or service feature as requested by the customer;

c. Acting in a manner that is authorized or required by applicable law; or

d. Engaging in other conduct that is necessary to provide service; or

(d) Representing when soliciting funds that a charity will be the recipient of the funds when the professional solicitor or his employer pursuant to a contract is allowed to or will receive more than fifty percent (50%) of the gross receipts of the funds solicited as his compensation. It shall be a defense in any action brought to enforce this subsection for the professional solicitor to show that he disclosed in a clear and conspicuous manner to the prospective donor the percentage of the funds which he was allowed by contract to receive.

(2) (a) Notwithstanding other criminal and administrative remedies, a person or class of persons alleging:

1. Receipt of a call in violation of paragraph (1)(c) of this section of this Act; or

2. That a number assigned to the person was misleadingly transmitted as a caller identification number by a solicitor;

may bring a civil action in the county where the plaintiff resides or has his or her principal place of business, against any person who is responsible for or who knowingly participated in the violation.

(b) The civil action brought under paragraph (a) of this subsection may be for:

1. Appropriate injunctive relief;

2. Actual damages;

3. Actual expenses incurred, including court costs and attorney's fees; and

4. Punitive damages.

➔Section 4. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the

defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties**.**~~[;]~~

(b) ***1.*** The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than ***five thousand dollars ($5,000)***~~[two thousand dollars ($2,000)]~~ per violation**.**

2. In addition to any other penalties provided for the commission of the offense, any person found guilty of violating subsection (1)(c) of Section 3 of this Act:

a. Shall be punished by a fine of no less than five hundred dollars ($500) for the first offense and no less than five thousand dollars ($5,000) for any subsequent offense; and

b. Pay restitution of any financial benefit secured through conduct proscribed by subsection (1)(c) of Section 3 of this Act.

3. The Office of the Attorney General or the appropriate Commonwealth's attorney shall have concurrent enforcement powers as to fines, felonies, and misdemeanors under this paragraph.~~[; and]~~

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year knowingly and willfully violates KRS 367.46955(15) by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of Consumer Protection.

(24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list identified in KRS 367.46955(15) for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

(25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars ($5,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.

(c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.

(d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working

days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

(26) Any person who violates KRS 367.500 shall be liable for a penalty of two thousand five hundred dollars ($2,500) per violation. Either the Attorney General or the appropriate Commonwealth's attorney may prosecute violations of KRS 367.500.

➔Section 5. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services or goods in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting;

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

a. The father or mother or both are domiciled in this state;

b. There is a repeated pattern of intercourse between the father and mother in this state; or

c. Said intercourse is a tort or a crime in this state; or

9. Making a telephone solicitation, as defined in KRS 367.46951, ***or a charitable solicitation as defined in KRS 367.650 via telecommunication,*** into the Commonwealth.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons either by:

1. Sending by certified mail two (2) true copies to the Secretary of State and shall also mail with the summons two (2) attested copies of plaintiff's complaint; or

2. Transmitting an electronically attested copy of the complaint and summons to the Secretary of State via the Kentucky Court of Justice electronic filing system.

(c) The Secretary of State shall, within seven (7) days of receipt thereof in his office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The clerk shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure.

(d) The clerk mailing the summons to the Secretary of State shall mail to him, at the same time, a fee of ten dollars ($10), which shall be taxed as costs in the action. The fee for a summons transmitted electronically pursuant to this subsection shall be transmitted to the Secretary of State on a periodic basis.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Signed by Governor March 26, 2019.

CHAPTER 106

(HB 342)

AN ACT relating to electronic prescribing of controlled substances.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 218A.180 or any other state law to the contrary, beginning January 1, 2021, no practitioner shall issue any prescription for a controlled substance unless the prescription is made by electronic prescription from the practitioner issuing the prescription to a pharmacy, except for prescriptions issued:

(a) By veterinarians;

(b) In circumstances where electronic prescribing is not available due to temporary technological or electrical failure;

(c) By a practitioner to be dispensed by a pharmacy located outside the state;

(d) When the prescriber and dispenser are the same entity;

(e) That include elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard;

(f) By a practitioner for a drug that contains certain elements that cannot be incorporated as required by the United States Food and Drug Administration with electronic prescribing, including extemporaneous compounding;

(g) By a practitioner allowing for the dispensing of a nonpatient specific prescription under a standing order, approved protocol for drug therapy, or collaborative drug management or comprehensive medication management, in response to a public health emergency;

(h) By a practitioner prescribing a drug under a research protocol;

(i) By practitioners who have received a waiver or a renewal thereof, from the requirement to use electronic prescribing due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner. The initial waiver and each subsequent waiver renewal shall not exceed one (1) year per waiver or waiver renewal;

(j) By a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, the practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and delay would adversely impact the patient's medical condition;

(k) By a practitioner for an individual who receives hospice care; or

(l) By a practitioner for an individual who is a resident of a nursing facility.

(2) A pharmacist who receives a written, oral, or faxed prescription for a controlled substance shall not be required to verify that the prescription properly falls under one (1) of the exceptions from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral, or fax prescriptions that are consistent with current laws and administrative regulations.

(3) The cabinet shall promulgate administrative regulations to implement this section including enforcement mechanisms, waivers of requirements, and appropriate penalties for violations.

➔Section 2. This Act takes effect January 1, 2021.

Signed by Governor March 26, 2019.

CHAPTER 107

(HB 341)

AN ACT relating to special license plates.

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

➔Section 1. KRS 186.162 is amended to read as follows:

(1) As used in this section and in KRS 186.043, 186.164, 186.166, 186.1722, and 186.174:

(a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

(b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

(c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk***. If a CF amount is charged for a license plate listed in this section, the applicant for that plate shall also pay the fees identified in KRS 186.040(6). If a CF amount is not charged, the applicant shall not be required to pay those fees***; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

(a) Disabled veterans who receive assistance to purchase a vehicle from the United States Department of Veterans' Affairs, veterans declared by the United States Department of Veterans' Affairs to be one hundred percent (100%) service-connected disabled, and recipients of the Congressional Medal of Honor:

1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).

(b) Former prisoners of war and survivors of Pearl Harbor:

1. Initial Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: ***$6*** ~~[$3]~~ ($0 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(c) Members of the Kentucky National Guard and recipients of the Purple Heart:

1. Initial Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: ***$11*** ~~[$8]~~ ($0 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(d) Members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; recipients of the Silver Star Medal, or the Bronze Star Medal awarded for valor; persons who wish to receive Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses license plates beyond the two (2) exempted from fees under KRS 186.041(6); individuals eligible for a special military service academy license plate under KRS 186.041(8); and disabled veterans who have been declared to be between fifty percent (50%) and ninety-nine percent (99%) service-connected disabled by the United States Department of Veterans' Affairs:

1. Initial Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: ***$6*** ~~[$3]~~ ($0 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$6*** ~~[$3]~~ ($0 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(f) Disabled license plates:

1. Initial Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(g) Historic vehicles:

1. Initial Fee for two plates: ***$56*** ~~[$53]~~ ($50 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: Do not renew annually.

(h) Members of Congress:

1. Initial Fee: ***$43*** ~~[$40]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(i) Firefighters:

1. Initial Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(j) Emergency management:

1. Initial Fee: ***$31*** ~~[$28]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(k) Fraternal Order of Police:

1. Initial Fee: ***$41*** ~~[$38]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Kentucky

FOP Death Benefit Fund).

2. Renewal Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Kentucky FOP Death Benefit Fund).

(l) Law Enforcement Memorial:

1. Initial Fee: ***$41*** ~~[$38]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

2. Renewal Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(m) Personalized plates:

1. Initial Fee: ***$43*** ~~[$40]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$43*** ~~[$40]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(n) Street rods:

1. Initial Fee: ***$43*** ~~[$40]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(o) Nature plates:

1. Initial Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

2. Renewal Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

(p) Amateur radio:

1. Initial Fee: ***$43*** ~~[$40]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(q) Kentucky General Assembly:

1. Initial Fee: ***$43*** ~~[$40]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(r) Kentucky Court of Justice:

1. Initial Fee: ***$43*** ~~[$40]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$11*** ~~[$8]~~ ($0 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(s) Masons:

1. Initial Fee: ***$31*** ~~[$28]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$0 EF).

2. Renewal Fee: ***$18*** ~~[$15]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$0 EF).

(t) Collegiate plates:

1. Initial Fee: ***$53*** ~~[$50]~~ ($37 SF/***$6*** ~~[$3]~~ CF/$10 EF to the general scholarship fund of the university whose name will be borne on the plate).

2. Renewal Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to the general scholarship fund of the university whose name will be borne on the plate).

(u) Independent Colleges:

1. Initial Fee: ***$41*** ~~[$38]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

2. Renewal Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(v) Child Victims:

1. Initial Fee: ***$41*** ~~[$38]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$10 EF to the child victims' trust fund established under KRS 41.400).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(w) Kentucky Horse Council:

1. Initial Fee: ***$41*** ~~[$38]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Kentucky Horse Council).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the Kentucky Horse Council).

(x) Ducks Unlimited:

1. Initial Fee: ***$41*** ~~[$38]~~ ($25 SF/***$6*** ~~[$3]~~ CF/$10 EF to Kentucky Ducks Unlimited).

2. Renewal Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to Kentucky Ducks Unlimited).

(y) Spay neuter:

1. Initial Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to the animal control and care fund established under KRS 258.119).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the animal control and care fund established under KRS 258.119).

(z) Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses:

1. Initial Fee: $0 ($0 SF/$0 CF/ $0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/ $0 EF).

3. A person may receive a maximum of two (2) plates under this paragraph free of charge and may purchase additional plates for fees as established in subsection (2)(d) of this section.

(aa) I Support Veterans:

1. Initial Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to the Kentucky Department of Veterans' Affairs).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the Kentucky Department of Veterans' Affairs).

(ab) Gold Star Siblings, Gold Star Sons, or Gold Star Daughters:

1. Initial Fee: ***$28*** ~~[$25]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$10 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: ***$23*** ~~[$20]~~ ($12 SF/***$6*** ~~[$3]~~ CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(ac) Special license plates established between June 20, 2005, and the effective date of this Act:

1. Initial Fee: $41 ($25 SF/$6 CF/$10 EF).

2. Renewal Fee: $41 ($25 SF/$6 CF/$10 EF).

(ad) Special license plates established under Section 2 of this Act on or after the effective date of this Act:

1. Initial Fee: $40 ($24 SF/$6 CF/$10 EF).

2. Renewal Fee $28 ($12 SF/$6 CF/$10 EF).

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar ($25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars ($20) and the county clerk receiving five dollars ($5).

(4) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).

➔Section 2. KRS 186.164 is amended to read as follows:

(1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3)~~[Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3). The twenty-five dollar ($25) initial fee and twelve dollar ($12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.~~

~~(4)]~~ An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2) and 186.042(5). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(4)~~[(5)]~~ (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar ($3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(5)~~[(6)]~~ Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar ($3) county clerk fee for use on any other vehicle of the same classification and category owned, leased, or acquired by the person during the current licensing period. If the owner or lessee has the special plate reissued to a vehicle which has been previously registered in this state, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(6)~~[(7)]~~ A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person

applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).

(7) ~~[(8)]~~ Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(8) ~~[(9)]~~ A group wanting to create a special license plate that is not authorized under this chapter on ***the effective date of this Act*** ~~[June 20, 2005]~~, shall comply with the following conditions before being eligible to apply for a special license plate:

(a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;

(b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;

(c) The ~~[group, or the group's lettering, logo, image, or]~~message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;

(d) The ***plate*** ~~[group]~~ shall not ***represent*** ~~[be]~~ a political party and shall not have been created primarily to promote a specific political belief;

(e) The ***plate*** ~~[group]~~ shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;

(f) The ***plate*** ~~[name of the group]~~ shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and

(g) The ***plate's*** ~~[group's]~~ lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.

(9) ~~[(10)]~~ If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection ***(8)*** ~~[(9)]~~ of this section, the cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate standing committees on transportation of the denial and the reasons upon which the cabinet based the denial.~~[A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.]~~

(10) ~~[(11)]~~ If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after***:*** ~~[ ]~~

(a) The group collects a minimum of nine hundred (900) applications with each application being accompanied by a ***fee as set forth in Section 1 of this Act*** ~~[twenty five dollar ($25) state fee]~~. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently***; and***

(b) The group submits to the cabinet the programming and production costs for the plate.

(11) ~~[(12)]~~ ***A group that is approved for a special license plate shall maintain a minimum number of five hundred (500) registrations annually for the cabinet to continue production of the plate.***

(12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate ***shall*** ~~[may]~~, at the time of application, make a~~[voluntary]~~ contribution that the county clerk shall forward to the cabinet ***as set forth in Section 1 of this Act***.~~[The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars ($10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount.]~~ The cabinet shall, on an annual basis, remit the ~~[voluntary]~~ contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding ~~[voluntary]~~ contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory

EF fee under KRS 186.162 shall ***maintain***~~[submit]~~ the information required under subsection (13)(a) and (c) of this section ***with***~~[to]~~ the Transportation Cabinet~~[within thirty (30) days of June 20, 2005]~~.

(13) ~~[If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section,]~~The group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then ***a***~~[an extra]~~ donation for use by the group or organization shall be prohibited;

(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.

(14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.

(15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

(a) Documentation that will be required to accompany an application for a special license plate to provide proof of:

1. Election to the United States Congress or the Kentucky General Assembly;
2. Election or appointment to the Kentucky Court of Justice;
3. Membership in a Masonic Order, Fraternal Order of Police, or emergency management organization;
4. Eligibility for membership in the Gold Star Mothers of America;
5. Eligibility as a father for associate membership in the Gold Star Mothers of America;
6. Eligibility for membership in the Gold Star Wives of America;
7. Ownership of an amateur radio operator license;
8. Receipt of the Silver Star Medal;
9. Receipt of the Bronze Star Medal awarded for valor;
10. Eligibility for a Gold Star Siblings license plate for a person whose sibling died while serving the country in the United States Armed Forces. For the purposes of this subparagraph, "sibling" means a sibling by blood, a sibling by half-blood, a sibling by adoption, or a stepsibling; or
11. Eligibility for a Gold Star Sons or Gold Star Daughters license plate for a person whose parent or stepparent died while serving the country in the United States Armed Forces;

(b) The time schedule permissible for a group or organization to request a design change for the special license plate; and

(c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection ***(10)***~~[(9)]~~ of this section.

(16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

➔Section 3. KRS 186.172 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, any current or retired member of a fire department, volunteer fire department, or fire protection district in the Commonwealth shall be issued a special firefighter license plate that shall bear the inscription "Firefighter," a registration number, and an appropriate standardized insignia.

(2) Each initial or renewal application shall be accompanied by proof of current service or retirement as a firefighter as furnished by the fire chief, the mayor or trustee of a city, or the county judge/executive in appropriate rural areas, and the payment of the fees set forth in KRS 186.162.

(3) The special firefighter license plate shall be administered in the same manner as other special license plates as prescribed in KRS 186.164.~~[The Kentucky Firefighters Association may petition the Transportation Cabinet to place a voluntary contribution on special firefighter license plates in accordance with KRS 186.164(12) to (14).]~~

➔Section 4. KRS 186.174 is amended to read as follows:

(1) For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers significant to the applicant and it also means a license plate that is issued under this section and has been combined with a special license plate.

(2) Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1), (3)(a), or (4)(a), or any owner or lessee of a motorcycle required to be registered under the provisions of KRS 186.050(2) may obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of the fee required in KRS 186.162. A person initially applying for a personalized license plate shall submit the application and appropriate SF fee in person to the county clerk, but may submit the annual application to renew the personalized license plate and entire fee required in KRS 186.162 by mail to the county clerk.

(3)~~[(a) For personalized license plates already issued on July 14, 2018, renewal applications and fees must be received by the Transportation Cabinet on or before September 1, 2018. Except as provided in paragraph (b) of this subsection, personalized license plates that expire December 31, 2018, and are renewed under this subsection, shall then expire on the last day of the birth month of the applicant in 2019 and in each succeeding year. An applicant who renews a plate under this paragraph shall be charged a prorated registration fee based on the number of months the registration is valid for during the year 2019.~~

~~(b) Personalized license plates that expire December 31, 2018, and are renewed under this subsection by individuals whose birth months are in January, February, and March shall expire April 30, 2019, and then shall expire on the last day of the birth month of the applicant in each succeeding year. An applicant who renews a plate under this paragraph shall be charged a prorated registration fee based on the number of months the registration is valid for during the year 2019.~~

~~(4)]~~ Personalized license plates ~~[issued after July 14, 2018,]~~ shall expire on the last day of the birth month of the applicant.

(4)~~[(5)]~~ A personalized license plate shall be replaced on the same schedule as regular issue license plates unless it is damaged or unreadable. A county clerk shall immediately forward the application and the fee required in KRS 186.162 for a personalized license plate to the Transportation Cabinet. The initial fee for a personalized license plate that has been combined with special license plate shall be as established in KRS 186.162(3).

(5)~~[(6)]~~ ***(a)*** A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces.

(b) A personalized plate shall not be issued if the cabinet determines the request fails to comply with the ***following*** conditions***;*** ~~[specified in KRS 186.164(9)(c) to (g).]~~

1. The message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;

2. The plate shall not represent a political party and shall not have been created primarily to promote a specific political belief;

3. The plate shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;

4. The plate shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and

5. The plate's lettering or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.

(c) The owner or lessee shall submit an application and fee to renew a personalized license plate pursuant to the provisions of this section. Once an applicant obtains a personalized plate, he or she will have first priority on that plate for each of the following years that he or she makes timely and proper application.

➔Section 5. The following KRS section is repealed:

186.167 Masonic Homes of Kentucky, Inc. -- Petition for voluntary contributions under KRS 186.164.

Signed by Governor March 26, 2019.

CHAPTER 108

(HB 340)

AN ACT relating to 911 emergency service.

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

➔Section 1. KRS 65.750 is amended to read as follows:

As used in this section to KRS 65.760:

(1) "911 emergency service" means a system that provides the end user of a service connection with emergency services by ***using the digits***~~[dialing]~~ 9-1-1, directs ***emergency***~~[911]~~ calls to the appropriate public safety answering points based on the geographic location from which the call originated, and provides the capability for automatic number identification and automatic location identification features in accordance with the FCC order. As used in KRS 65.760, the term "911 emergency service" includes the terms ***"next generation 911," as defined in KRS 65.7621,*** "wireless enhanced 911 system," "wireless enhanced 911 service," and "wireless E911 service" as used in KRS 65.7621 to 65.7643;

(2) "Automatic call distribution" or "ACD" means a system that automatically distributes incoming calls to PSAP attendants in the order the calls are received;

(3) "Automatic number identification" or "ANI" means a feature that allows for the automatic display of the 911 caller's ten (10) digit number, or equivalent, in accordance with applicable FCC rules and regulations;

(4) "Automatic location identification" or "ALI" means a feature by which the location or estimated location of the calling party is made available to a PSAP in accordance with applicable FCC rules and regulations;

(5) "Automatic location identification data management system" or "ALI/DBS" means a system of manual procedures and computer programs used to create, store, and update the data required for ALI in support of enhanced 911;

(6) "Automatic vehicle location" or "AVL" means a system used to track emergency responder vehicles;

(7) "Dispersed private telephone system" or "DPTS" means a multiline, shared tenant system or PBX used for the purpose of reselling telephone service to residential customers and whose connection to a telephone network is capable of carrying emergency calls from more than one (1) specific location within a structure or structures

but does not mean a multiline, shared tenant system or PBX owned and operated by a state agency or used in providing service within a hotel or motel;

(8) "FCC order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted effective October 1, 1996, including any subsequent amendments or modifications thereof;

(9) "Fully enhanced 911 emergency telephone service" means a telephone network feature that selectively routes calls placed to the national 911 emergency number to the proper public service answering points (PSAPs) and provides the PSAP with a voice connection and ANI and ALI information;

(10) "Geographic information systems" or "GIS" means a system for capturing, storing, displaying, analyzing, and managing data, and associated attributes which are spatially referenced;

(11) "Law Enforcement Information Network of Kentucky and the National Crime Information Center" or "LINK/NCIC" means two (2) systems used by law enforcement and emergency communications personnel for short messaging between agencies and to request vehicle, driver, and criminal history checks;

(12) "Local government" means any city, county, urban-county government, consolidated local government, unified local government, or charter county government;

(13) "Master street address guide" or "MSAG" means a database of street names and house number ranges within their associated communities defining emergency services zones and their associated emergency service numbers used by PSAPs to enable proper routing of 911 calls;

(14) "Private branch exchange" or "PBX" means a privately owned switch system that connects calls to a telephone company;

(15) "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(16) "Service connection" means the transmission, conveyance, or routing of voice, data, video, text, or any other information signal of the purchaser's choosing by any medium or method now in existence or later devised with the ability to directly connect the user to 911 emergency services;

(17) "Service supplier" means a person or entity that administers, maintains, and operates the ALI/DBS and may include telephone companies that provide local exchange telephone service to a telephone subscriber;

(18) "Station identification number" or "SIN" means a number that a DPTS uses to identify a specific station on the switch; and

(19) "Interconnected Voice over Internet Protocol" or "VoIP" means a service that:

(a) Enables real-time, two-way voice communications;

(b) Requires a broadband connection from the user's location;

(c) Requires Internet protocol-compatible customer premises equipment; and

(d) Permits users generally to receive calls that originate on the public switched telephone network and terminate calls to the public switched telephone network.

➔Section 2. KRS 65.7637 is amended to read as follows:

Notwithstanding any other provision of law, no CMRS provider**,**~~[or]~~ service supplier, ***provider of Interconnected Voice over Internet Protocol service as defined in Section 1 of this Act, or entity that provides services or equipment used in a 911 or next generation 911 system,*** nor their employees, directors, officers, ***subcontractors,*** or agents, except in cases of negligence, or wanton or willful misconduct, or bad faith, shall be liable for any damages in a civil action or subject to criminal prosecution resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, establishing, participating in, implementing, maintaining, or providing access to ***911 emergency service as defined in Section 1 of this Act;***~~[a CMRS system for the purposes of providing wireless 911 service or E911 service in compliance with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC orders:]~~ in connection with the quality of the service; in connection with ensuring that any 911 call ***or communication*** goes through properly; or in connection with providing access to ***911 emergency***~~[CMRS]~~ service in connection with providing wireless 911 service**,**~~[or]~~ E911 service***, or next generation 911 service***.

Signed by Governor March 26, 2019.

CHAPTER 109

(HB 338)

AN ACT relating to employment opportunities for service members and their families.

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

➔Section 1. KRS 18A.150 is amended to read as follows:

(1) ***Interview preference to a competitive classified position for which he or she meets the minimum qualifications established for the job classification shall apply to:***

(a) Any person who has served in the ***Armed Forces of the United States, Reserves, or National Guard who***~~[active military, military reserves, or National Guard and]~~ was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge***, or his or her spouse or unmarried widow or widower;***~~[shall have five (5) points added to the veteran's entrance examination score for classified positions. Any current member of the active military, military reserves, or National Guard shall be entitled to the same number of points]~~

(b) The unmarried widow or widower of any military personnel who died while in the Armed Forces of the United States, Reserves, or National Guard, unless circumstances surrounding the death was cause for other than honorable or general discharge separation; and

(c) Any current member of the Armed Forces of the United States, Reserves, or National Guard or his or her spouse.

(2) ~~[Any person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, whom the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to the veteran's entrance examination score for a classified position.~~

~~(3) The spouse of a person who has served in the active military, military reserves, or National Guard, was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies the veteran for positions along the general line of the veteran's usual occupation shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled veteran recovers.~~

~~(4) Until remarriage, the surviving spouse of a person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable or general discharge separation.~~

~~(5)]~~A parent totally or partially dependent on a person who has served in the ***Armed Forces of the United States, Reserves, or National Guard***~~[active military, military reserves, or National Guard]~~ and lost his or her life under honorable conditions while on active duty or active duty for training purposes or became permanently and totally disabled as a result of a service-connected disability shall have ***interview preference to a competitive classified position for which he or she meets the minimum qualifications established for the job classification***~~[ten (10) preference points added to the parent's examination score for a classified position.~~

~~(6) The preference points granted by subsections (1) to (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points may exceed one hundred (100)]~~.

(3)~~[(7)]~~ (a) ***Applicants entitled to interview preference as set forth in this section shall be clearly identified***~~[When a register certificate is transmitted to a state agency for employment consideration, that certificate shall clearly identify all individuals entitled to preference points under subsections (1) to (6) of this section, whether or not an examination is actually a part of the selection method. Regardless of the selection method used to fill a vacancy, these individuals shall be clearly identified]~~.

(b) 1. If the number of individuals identified in paragraph (a) of this subsection is less than five (5), the employing agency shall offer an interview to all individuals identified in paragraph (a) of this subsection~~[, including individuals presently employed by the Commonwealth of Kentucky and applying for another classified position within state government]~~.

2. If the number of individuals identified in paragraph (a) of this subsection equals or exceeds five (5), the employing agency shall offer an interview to no fewer than five (5).

(4) Interview preference shall only apply to candidates seeking initial appointment to the classified service.

Signed by Governor March 26, 2019.

CHAPTER 110

(HB 337)

AN ACT relating to deputy sheriffs.

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

➔Section 1. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his or her own deputies and may revoke the appointment at his or her pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. ***Any law to the contrary notwithstanding, a sheriff may appoint a deputy who resides outside the Commonwealth.*** In a county containing a consolidated local government or city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his or her office, he or she shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint his or her own certified court security officers and may revoke the appointment at his or her pleasure. A certified court security officer shall take an oath to faithfully perform the duties of his or her office and that he or she possesses the minimum qualifications under KRS 15.3971.

(3) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him or her in the performance of the duties of his or her office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(4) No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.

(5) Except for certified court security officers, a sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Program Fund authorized by KRS 15.410 to 15.510 without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the consolidated local government or the fiscal court to establish a deputy sheriff merit board.

➔Section 2. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer, or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) If a deputy constable, he has resided in the county wherein he is appointed to serve for a period of at least two (2) years;

(3) ~~[If a deputy sheriff, he shall be a resident of the Commonwealth of Kentucky.]~~A sheriff may require his or her deputies to reside in the county in which they serve. Any deputy sheriff appointed pursuant to this section who has not been a resident of the county in which he serves for a period of at least two (2) years shall not be an active participant in any labor dispute and shall immediately forfeit his position if he violates this provision;

(4) He has never been convicted of a crime involving moral turpitude;

(5) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer, or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen, or private guards, or advertised or solicited any such business in connection with any labor dispute; and

(6) He has complied with the provisions of KRS 15.334.

Signed by Governor March 26, 2019.

CHAPTER 111

(HB 328)

AN ACT relating to firearms on school property.

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

➔Section 1. KRS 527.070 is amended to read as follows:

(1) A person is guilty of unlawful possession of a weapon on school property when he knowingly deposits, possesses, or carries, whether openly or concealed, for purposes other than instructional or school-sanctioned ceremonial purposes, or the purposes permitted in subsection (3) of this section, any firearm or other deadly weapon, destructive device, or booby trap device in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field, or any other property owned, used, or operated by any board of education, school, board of trustees, regents, or directors for the administration of any public or private educational institution. The provisions of this section shall not apply to institutions of postsecondary or higher education.

(2) Each chief administrator of a public or private school shall display about the school in prominent locations, including, but not limited to, sports arenas, gymnasiums, stadiums, and cafeterias, a sign at least six (6) inches high and fourteen (14) inches wide stating:

UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL

PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE

BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A

TEN THOUSAND DOLLAR ($10,000) FINE.

Failure to post the sign shall not relieve any person of liability under this section.

(3) The provisions of this section prohibiting the unlawful possession of a weapon on school property shall not apply to:

(a) An adult ***who is not a pupil of any secondary school and*** who possesses a firearm, if the firearm is contained within a vehicle operated by the adult and is not removed from the vehicle, except for a purpose permitted herein, or brandished by the adult, or by any other person acting with expressed or implied consent of the adult, while the vehicle is on school property;

(b) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a school club or team, to the extent they are required to carry arms or weapons in the discharge of their official class or team duties;

(c) Any peace officer or police officer authorized to carry a concealed weapon pursuant to KRS 527.020;

(d) Persons employed by the Armed Forces of the United States or members of the National Guard or militia when required in the discharge of their official duties to carry arms or weapons;

(e) Civil officers of the United States in the discharge of their official duties. Nothing in this section shall be construed as to allow any person to carry a concealed weapon into a public or private elementary or secondary school building;

(f) Any other persons, including, but not limited to, exhibitors of historical displays, who have been authorized to carry a firearm by the board of education or board of trustees of the public or private institution;

(g) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the board of education or board of trustees of the educational institution;

(h) A person possessing unloaded hunting weapons while traversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands, unless the lands of the educational institution are posted prohibiting the entry; or

(i) A person possessing guns or knives when conducting or attending a "gun and knife show" when the program has been approved by the board of education or board of trustees of the educational institution.

(4) Unlawful possession of a weapon on school property is a Class D felony.

Signed by Governor March 26, 2019.

CHAPTER 112

(HB 325)

AN ACT relating to elections.

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

➔Section 1. KRS 116.055 is amended to read as follows:

(1) Before a person shall be qualified to vote in a primary~~[election]~~, he ***or she:***

(a) Shall possess all the qualifications required of voters in a regular election***;***~~[. In addition, he]~~

(b) Shall ***have been***~~[be]~~ a registered member of the party in whose primary~~[election]~~ he ***or she*** seeks to vote~~[, and shall have been registered as a member of that party]~~ on December 31 immediately preceding the primary***; and*** ~~[election, or, in the case of new registrations made after December 31 immediately preceding the primary election, he shall have registered and]~~

(c) ***Shall have*** remained ***continuously*** registered as a member of that party ***in whose primary he or she seeks to vote between December 31 immediately preceding the primary and the date set for the primary***.

(2) ***In the case of a new registration made after December 31 immediately preceding the primary, a voter shall have registered and remained continuously registered as a member of the party in whose primary he or she seeks to vote from the date of registration until the date set for the primary.***

(3) ***Any voter who withdraws his or her registration after December 31 immediately preceding the primary, and reregisters as a voter with a different party affiliation, during those periods that the registration books are open immediately preceding the primary, shall not be eligible to vote in the upcoming primary.***

(4) No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he ***or she*** is a registered member.

(5) The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election shall be entitled

to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party, political organization, political group, or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races.

➔Section 2. KRS 117.085 is amended to read as follows:

(1) All requests for an application for a mail-in absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. The county clerk shall transmit all applications for a mail-in absentee ballot~~[by mail]~~ to the voter ***by mail, electronic mail,*** or in person at the option of the voter, except as provided in paragraph (b) of this subsection. The mail-in absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter.~~[Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, those who are uniformed service voters as defined in KRS 117A.010 that are confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, mail in absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. The county clerk shall provide a mail in absentee ballot, two (2) official envelopes for returning the mail in absentee ballot, and instructions for voting to a voter who presents a completed application for mail in absentee ballot as provided in this section and who is properly registered as stated in his or her mail in absentee ballot application.]~~

(a) A qualified voter may apply to cast his or her vote by mail-in absentee ballot if the ***completed*** application is received not later than the close of business hours seven (7) days before the election, and if the voter is:

1. ~~[Permitted to vote by a mail in absentee ballot pursuant to KRS 117.075;~~

~~2.]~~ A resident of Kentucky who is a covered voter as defined in KRS 117A.010;

2.~~[3.]~~ A student who temporarily resides outside the county of his or her residence;

3.~~[4.]~~ Incarcerated in jail and charged with a crime, but has not been convicted of the crime;

4.~~[5.]~~ Changing or has changed his or her place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, in which case the voter shall be permitted to cast a mail-in absentee ballot for electors for President and Vice President of the United States only;

5.~~[6.]~~ Temporarily residing outside the state but still eligible to vote in this state;

6.~~[7.]~~ Prevented from voting in person at the polls on election day and from casting an in-person absentee ballot in the county clerk's office on all days in-person absentee voting is conducted because his or her employment location requires him or her to be absent from the county of his or her residence all hours and all days in-person absentee voting is conducted in the county clerk's office;~~[or]~~

7.~~[8.]~~ A participant in the Secretary of State's crime victim address confidentiality protection program as authorized by KRS 14.312***; or***

8. Not able to appear at the polls on election day on the account of age, disability, or illness, and who has not been declared mentally disabled by a court of competent jurisdiction.

(b) Residents of Kentucky who are covered voters as defined in KRS 117A.010 may apply for a mail-in absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail, by facsimile machine, or by means of the electronic transmission system established under KRS 117A.030(4). The federal post-card application may be used to register, reregister, and to apply for a mail-in absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.

(c) In-person absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit in-person absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.

(d) ~~[Any qualified voter in the county of his or her residence who is not permitted to vote by a mail in absentee ballot under paragraph (a) of this subsection who will be absent from the county of his or her residence on any election day may, at any time during normal business hours on those days in person absentee voting is conducted in the county clerk's office, make application in person to the county clerk to cast an in-person absentee vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.~~

~~(e)]~~A qualified voter may, at any time during normal business hours on those days in-person absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, if the voter:

1. Is a resident of Kentucky who is a covered voter as defined in KRS 117A.010, who will be absent from the county of his or her residence on any election day;

2. Is a student who temporarily resides outside the county of his or her residence;

3. Has surgery, or whose spouse has surgery, scheduled that will require hospitalization on election day;

4. Temporarily resides outside the state, but is still eligible to vote in this state and will be absent from the county of his or her residence on any election day;

5. Is a resident of Kentucky who is a uniformed-service voter as defined in KRS 117A.010 confined to a military base on election day, learns of that confinement within seven (7) days or less of an election, and is not eligible for a mail-in absentee ballot under this subsection;

6. Is in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote;~~[or]~~

7. Has not been declared mentally disabled by a court of competent jurisdiction and, on account of age, disability, or illness, is not able to appear at the polls on election day***; or***

8. Is not permitted to vote by a mail-in absentee ballot under paragraph (a) of this subsection, but who will be absent from the county of his or her residence on election day.

(e)~~[(f)]~~ Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an in-person absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, up to the close of normal business hours on the day before the election.

(f)~~[(g)]~~ Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he or she is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he or she is registered receives his or her appointment while in-person absentee voting is being conducted in the county, the officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. Precinct election officers' verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(g)~~[(h)]~~ The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all in-person absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the

members of the county board of elections or their designees serve as precinct election officers for the in-person absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for in-person absentee voting, the county clerk or deputy county clerks shall supervise the in-person absentee voting.

(h) ~~[(i)]~~ Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all in-person absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

(2) The county clerk shall type the name of the voter permitted to vote by mail-in absentee ballot on the mail-in absentee ballot application form for that person's use and no other. The mail-in absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for a mail-in absentee ballot. The mail-in absentee ballot application form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the mail-in absentee ballot application form.

(3) If the county clerk finds that the voter is properly registered as stated in his or her mail-in absentee ballot application form and qualifies to receive a mail-in absentee ballot by mail, he or she shall mail to the voter a mail-in absentee ballot, two (2) official envelopes for returning the mail-in absentee ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for mail-in absentee ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the mail-in absentee ballots are mailed. A mail-in absentee ballot may be transmitted by facsimile machine or by the electronic transmission system established under KRS 117A.030(4) to a covered voter as defined in KRS 117A.010. The covered voter shall be notified of the options for transmittal of the mail-in absentee ballot, and the mail-in absentee ballot shall be transmitted by the method chosen for receipt by the resident of Kentucky who is a covered voter.

(4) Mail-in absentee ballots which are requested prior to the printing of the mail-in absentee ballots shall be mailed or otherwise transmitted as provided in subsection (3) of this section by the county clerk to the voter within three (3) days of the receipt of the printed ballots. Mail-in absentee ballots requested after the receipt of the ballots by the county clerk shall be mailed or otherwise transmitted as provided in subsection (3) of this section to the voter within three (3) days of the receipt of the request.

(5) The county clerk shall cause mail-in absentee ballots to be printed fifty (50) days prior to each primary or regular election, and forty-five (45) days prior to a special election.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The county clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The county clerk shall retain the mail-in ballot application form and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received a mail-in absentee ballot by mail but who knows at least seven (7) days before the date of the election that he or she will be in his or her county of residence on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her mail-in absentee ballot and vote in person. The voter shall return the mail-in absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the mail-in absentee ballot, the county clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The county clerk shall remove the voter's name from the list of persons who were sent mail-in absentee ballots, and the voter may vote in the precinct in which he or she is properly registered.

(8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in absentee ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second mail-in absentee ballot. The county clerk shall keep a record of the mail-in absentee ballots issued and returned by mail, and the in-person absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the county clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."

(9) Any covered voter as defined in KRS 117A.010 who has received a mail-in absentee ballot but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her mail-in absentee ballot and vote in person. The voter shall return the mail-in absentee ballot to the county clerk's office on or before election day. Upon the return of the mail-in absentee ballot, the county clerk shall mark on the outer envelope of the sealed mail-in absentee ballot or the unmarked mail-in absentee ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. If the covered voter is unable to return the mail-in absentee ballot to the county clerk's office on or before election day, at the time he or she votes in person, he or she shall sign a written oath as to his or her qualifications on the form prescribed by the State Board of Elections pursuant to KRS 117.245. The county clerk shall remove the voter's name from the list of persons who were sent mail-in absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.

(10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, the information contained in an application for a mail-in absentee ballot shall not be made public until after the close of business hours on the election day for which the application applies. This subsection shall not prohibit at any time the disclosure, upon request, of the total number of applications for mail-in absentee ballots that have been filed, or the disclosure to the Secretary of State or the State Board of Elections, if requested or if otherwise required by law, of any information in an application for a mail-in absentee ballot.

➔Section 3. KRS 116.065 is amended to read as follows:

Each application for registration, change of affiliation, transfer of registration or absentee ballot, as absentee ballots are provided for by ***Section 2 of this Act*** ~~[KRS 117.075]~~, shall be verified by a written declaration by the applicant that it is made under the penalties of perjury.

➔Section 4. KRS 117.0851 is amended to read as follows:

Absentee ballots cast, as provided by KRS ~~[117.075,]~~ 117.077~~[,]~~ and 117.085~~[,]~~ shall all be tabulated in the same manner, as shall be provided by this chapter.

➔Section 5. KRS 117.088 is amended to read as follows:

(1) For purposes of this section, "blind or visually impaired individual" means an individual who:

(a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;

(b) Has a medically indicated expectation of visual deterioration;

(c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;

(d) Has been certified as requiring permanent assistance to vote under KRS 117.255(5) for reason of blindness; or

(e) Qualifies to receive assistance to vote under KRS 117.255(2) for reason of blindness.

(2) For purposes of this section, "pilot program" means a program in a county containing a consolidated local government or containing a city of the first class for unassisted voting by blind or visually impaired individuals.

(3) A county board of elections in a county containing a consolidated local government or containing a city of the first class may establish a pilot program. As part of this pilot program, the State Board of Elections shall approve the use of voting equipment under KRS 117.379 that is designed to permit blind and visually impaired individuals to vote without assistance, for use beginning in the 2002 general election. No county board of

elections in a county containing a consolidated local government or containing a city of the first class shall be required to operate a pilot program.

(4) The State Board of Elections, if it approves the voting equipment under KRS 117.379, may approve the use of voting equipment designed to permit blind and visually impaired individuals to vote without assistance in as many locations within a county containing a consolidated local government or containing a city of the first class as are designated by the county board of elections.

(5) A county board of elections in a county containing a consolidated local government or containing a city of the first class shall provide a report to the State Board of Elections after every primary or general election regarding the number of blind or visually impaired individuals that have utilized the voting equipment during the pilot program.

(6) Notwithstanding the provisions of KRS 116.025, or any other statute to the contrary, a blind or visually impaired voter residing in a county containing a consolidated local government or containing a city of the first class that is operating a pilot program shall be permitted to vote at a location outside the precinct of his or her registration by voting at a location within the county of his or her registration on a voting machine designed to permit blind or visually impaired individuals to vote without assistance, which may include voting at the county clerk's office, or other place designated by the county board of elections, and approved by the State Board of Elections.

(7) Notwithstanding the provisions of KRS~~[117.075,]~~ 117.085, 117.086, or 117.0863 or any other statute to the contrary, a blind or visually impaired individual residing in a county containing a consolidated local government or containing a city of the first class that is operating a pilot program shall be permitted to vote in the location within the county of his or her registration as provided under subsection (6) of this section, on a voting machine designed to permit blind or visually impaired individuals to vote without assistance, at any time during which absentee voting is conducted in the clerk's office or other place designated by the county board of elections during normal business hours on at least any of the twelve (12) working days before the election, and the county board of elections may permit the voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above. An application for those blind or visually impaired individuals wishing to vote on a voting machine approved for use by blind or visually impaired individuals shall be prescribed by the State Board of Elections and shall include the individual's sworn statement that the individual is blind or visually impaired.

(8) Notwithstanding the requirements of KRS 117.381, or any other statute to the contrary, the State Board of Elections may certify, as a part of the pilot project of a county containing a consolidated local government or containing a city of the first class, voting equipment which utilizes audio recordings, voice-activated technology, or vocal recognition technology to record a vote, and may require such accommodations as would permit a blind or visually impaired voter to cast a vote in secret.

(9) Notwithstanding the provisions of KRS 117.255, a blind or visually impaired voter residing in a county containing a consolidated local government or containing a city of the first class that is operating a pilot project may cast his or her vote alone and without assistance on a voting machine approved for use by blind or visually impaired individuals. However, the blind or visually impaired voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(10) Nothing in this section shall impair the right of any qualified voter under KRS 117.255 to receive assistance and vote according to the procedures specified in that section.

➔Section 6. KRS 117A.060 is amended to read as follows:

(1) A covered voter who is registered to vote in the Commonwealth of Kentucky may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under KRS 117.085 or the federal postcard application or the application's electronic equivalent.

(2) A covered voter who is not registered to vote in the Commonwealth of Kentucky may use a federal postcard application or the application's electronic equivalent to apply simultaneously to register to vote under KRS 117A.050 and for a military-overseas ballot.

(3) The Secretary of State shall ensure that the electronic transmission system described in KRS 117A.030(4) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The covered voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the close of business hours seven (7) days before the election.

(5) To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:

(a) The use of a federal postcard application or federal write-in absentee ballot; and

(b) The use of the electronic transmission system established under KRS 117A.030(4).

(6) This chapter does not preclude a covered voter from voting using the regular absentee ballot provisions under KRS~~[117.075,]~~ 117.077, 117.085, and 117.086.

➔Section 7. KRS 117A.070 is amended to read as follows:

An application for a military-overseas ballot is timely if received by the close of business hours seven (7) days before the election. An application for a military-overseas ballot for a primary, whether or not timely, is effective as an application for a military-overseas ballot for the regular election.

➔Section 8. The following KRS section is repealed:

117.075 Mail-in absentee ballots for voters with disabilities.

Signed by Governor March 26, 2019.

CHAPTER 113

(HB 323)

AN ACT relating to reciprocal occupational licensure for members of the United States military, reserves, National Guard, veterans, and their spouses.

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

➔Section 1. KRS 12.245 is amended to read as follows:

(1) An administrative body that issues a license, permit, certificate, or other document required to operate within a business, profession, or other occupation in the Commonwealth shall issue within thirty (30) days of receipt of a completed application a license, permit, certificate, or other document to a ***member of the*** United States military***, Reserves, or National Guard, or to his or her spouse,*** ~~[service member]~~or ***to a*** veteran ***or the spouse of a veteran,*** who is seeking a license, permit, certificate, or other document and currently holds or recently held equivalent documentation issued by another state, the District of Columbia, or any possession or territory of the United States unless:

(a) The license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States has been expired for more than two (2) years;

(b) The license, permit, certificate, or other documentation is not in good standing;

(c) The holder of the license, permit, certificate, or other document has had the license, permit, certificate, or other document suspended for disciplinary reasons; or

(d) The board can show substantive evidence of significant statutory deficiency in the training, education, or experience of the United States military service member***, Reserves or National Guard member,*** ~~[or]~~veteran, ***or spouse,*** which could cause a health or safety risk to the public.

(2) The United States military service member***, Reserves or National Guard member,*** ~~[or]~~veteran***, or spouse*** shall submit:

(a) Proof of issuance of a valid license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States that is active or has been expired for less than two (2) years;

(b) Proof that the valid license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States is in good standing or was upon the date of expiration; and

(c) His or her DD-214 form or other proof of active or prior military service with an honorable discharge, discharge under honorable conditions, or a general discharge under honorable conditions.

(3) A United States military service member***, Reserves or National Guard member,*** ~~[or]~~veteran***, or spouse*** who holds a license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States who applies for a license, permit, certificate, or other document pursuant to subsection (1) of this section and is denied shall have the right to appeal the decision in accordance with KRS Chapter 13B.

Signed by Governor March 26, 2019.

CHAPTER 114

(HB 320)

AN ACT relating to hospital rate improvement programs and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Assessment" means the hospital assessment authorized by Section 2 of this Act;

(2) "Commissioner" means the commissioner of the Department for Medicaid Services;

(3) "Department" means the Department for Medicaid Services;

(4) "Excess disproportionate share taxes" means any excess provider tax revenues collected under KRS 142.303 that are not needed to fund the state share of hospital disproportionate share payments under KRS 205.640 due to federal disproportionate share allotments being reduced and limited to the portion of provider tax revenues collected under KRS 142.303 necessary to fund the state share of the difference between the unreduced disproportionate share allotment and the reduced disproportionate share allotment;

(5) "Intergovernmental transfer" means any transfer of money by or on behalf of a public agency for purposes of qualifying funds for federal financial participation in accordance with 42 C.F.R. sec. 433.51;

(6) "Long-term acute hospital" means an in-state hospital that is certified as a long-term care hospital under 42 U.S.C. sec. 1395ww(d)(1)(B)(iv);

(7) "Managed care" means the provision of Medicaid benefits through managed care organizations under contract with the department pursuant to 42 C.F.R. sec. 438;

(8) "Managed care gap" means the difference between the maximum actuarially sound amount that can be included in managed care rates for hospital inpatient services provided by qualifying hospitals and out-of-state hospitals and the amount of total payments for hospital inpatient services provided by qualifying hospitals and out-of-state hospitals paid by managed care organizations. For purposes of the managed care gap, total payments shall include only those supplemental payments made to a qualifying hospital and shall exclude payments established under Sections 1 to 4 of this Act;

(9) "Managed care organization" means an entity contracted with the department to provide Medicaid benefits pursuant to 42 C.F.R. sec. 438;

(10) "Non-state government-owned hospital" means the same as non-state government-owned or operated facilities in 42 C.F.R. sec. 447.272 and represents one (1) group of hospitals for purposes of estimating the upper payment limit;

(11) "University hospital" means a state university teaching hospital, owned or operated by either the University of Kentucky College of Medicine or the University of Louisville School of Medicine, including a hospital owned or operated by a related organization pursuant to 42 C.F.R. sec. 413.17;

(12) "Pediatric teaching hospital" means the same as in KRS 205.565;

(13) "Private hospitals" means the same as privately-owned and operated facilities in 42 C.F.R. sec. 447.272 and represents one (1) group of hospitals for purposes of estimating the upper payment limit;

(14) "Program year" means the state fiscal year during which an assessment is assessed and rate improvement payments are made;

(15) "Psychiatric access hospital" means an in-state psychiatric hospital licensed under KRS Chapter 216B that:

(a) Is not located in a Metropolitan Statistical Area;

(b) Provides at least sixty-five thousand (65,000) days of inpatient care as reflected in the department's hospital rate data for state fiscal year 1998-1999;

(c) Provides at least twenty percent (20%) of inpatient care to Medicaid eligible recipients as reflected in the department's hospital rate data for state fiscal year 1998-1999; and

(d) Provides at least five thousand (5,000) days of inpatient psychiatric care to Medicaid recipients in a state fiscal year;

(16) "Qualifying hospital" means a Medicaid-participating, in-state hospital licensed under KRS Chapter 216B including a long-term acute hospital, but excluding a university hospital and a state mental hospital defined in KRS 205.639;

(17) "Qualifying hospital disproportionate share percentage" means a percentage equal to the amount of hospital provider taxes paid pursuant to KRS 142.303 by qualifying hospitals in state fiscal year 2016-2017 divided by the amount of hospital provider taxes paid pursuant to KRS 142.303 by all hospitals in state fiscal year 2016-2017;

(18) "University hospital disproportionate share percentage" means a percentage equal to the amount of hospital provider taxes paid pursuant to KRS 142.303 by university hospitals and state mental hospitals, as defined in KRS 205.639, in state fiscal year 2016-2017 divided by the amount of hospital provider taxes paid pursuant to KRS 142.303 by all hospitals in fiscal year 2016-2017;

(19) "Upper payment limit" or "UPL" means the methodology permitted by federal regulation to achieve the maximum allowable amount on aggregate hospital Medicaid payments to non-state government-owned hospitals and private hospitals under 42 C.F.R. sec. 447.272. A separate UPL shall be estimated for non-state government-owned hospitals and private hospitals; and

(20) "UPL gap" means the difference between the UPL and amount of total fee-for-service payments paid by the department for hospital inpatient services provided by non-state government-owned hospitals and private hospitals to Medicaid beneficiaries and excluding payments established under Sections 1 to 4 of this Act. A separate UPL gap shall be estimated for the non-state government-owned hospitals and private hospitals.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) To the extent allowable under federal law, the department shall develop the following programs to increase Medicaid reimbursement for inpatient hospital services provided by a qualifying hospital to Medicaid recipients:

(a) A program to increase inpatient reimbursement to qualifying hospitals within the Medicaid fee-for-service program in an aggregate amount equivalent to the UPL gap; and

(b) A program to increase inpatient reimbursement to qualifying hospitals within the Medicaid managed care program in an aggregate amount equivalent to the managed care gap.

(2) On an annual basis prior to the start of each program year, the department shall determine:

(a) The maximum allowable UPL for inpatient services provided in the Kentucky Medicaid fee-for-service program;

(b) The fee-for-service UPL gap for applicable ownership groups;

(c) A per discharge uniform add-on amount to be applied to Medicaid fee-for-service discharges at qualifying hospitals for that program year, determined by dividing the UPL gap for the applicable ownership group by total fee-for-service hospital inpatient discharges at qualifying hospitals in the data used to calculate the UPL gap. Claims for discharges that already receive an enhanced rate at qualifying hospitals that also are classified as a pediatric teaching hospital or as a psychiatric access hospital shall be excluded from the calculation of the per discharge uniform add-on, unless the department is required to include these claims to obtain federal approval;

(d) The maximum managed care gap for inpatient services; and

(e) A per discharge uniform add-on amount to be applied to Medicaid managed care discharges at qualifying hospitals for that program year in an amount that is calculated by dividing the managed care gap by total managed care in-state qualifying hospital inpatient discharges in the data used to calculate the managed care gap. Claims for discharges that already receive an enhanced rate at qualifying hospitals that also are classified as a pediatric teaching hospital or as a psychiatric access hospital shall be excluded from the calculation of the per discharge uniform add-on, unless the department is required to include these claims to obtain federal approval.

At least thirty (30) days prior to the beginning of each program year, the department shall provide each qualifying hospital the opportunity to verify the base data to be utilized in both the fee-for-service and managed care gap calculations, with data sources and methodologies identified.

(3) On a quarterly basis in the program year, the department shall:

(a) Calculate a fee-for-service quarterly supplemental payment for each qualifying hospital using fee-for-service claims for inpatient discharges paid in the quarter to the qualifying hospital multiplied by the uniform add-on amount determined in subsection (2)(c) of this section;

(b) Calculate a managed care quarterly supplemental payment for each qualifying hospital to be paid by each managed care organization using managed care encounter claims for inpatient discharges received in the quarter multiplied by the uniform add-on amount determined in subsection (2)(e) of this section;

(c) Make the quarterly supplemental payment calculated under paragraph (a) of this subsection;

(d) Provide each managed care organization with a listing of the supplemental payments to be paid by each managed care organization to each qualifying hospital;

(e) Provide each managed care organization with a supplemental capitation payment to cover the managed care organization's quarterly supplemental payments to be paid to qualifying hospitals in the quarter;

(f) Determine the amount of state funds necessary to obtain federal matching funds that, in the aggregate, equal the total quarterly supplemental payments to be paid to all qualifying hospitals in both the fee-for-service and the Medicaid managed care programs;

(g) Determine a per discharge hospital assessment for the quarter for each qualifying hospital, which shall be calculated by first applying towards the state share calculated under paragraph (f) of this subsection the qualifying hospital disproportionate share percentage of the excess disproportionate share taxes and then dividing the remaining state share by the total discharges reported by all in-state qualifying hospitals on the Medicare cost report filed by those qualifying hospitals in the calendar year two (2) years prior to the program year;

(h) Determine each qualifying hospital's quarterly assessment by multiplying the assessment established in paragraph (g) of this subsection by the hospital's total discharges from the qualifying hospital's Medicare cost report filed in the calendar year two (2) years prior to the program year; and

(i) Provide each qualifying hospital with a notice sent on the same day as the distribution to managed care organizations of the supplemental capitation payments pursuant to paragraph (e) of this subsection, of the qualifying hospital's quarterly assessment, that shall state the total amount due from the assessment, the date payment is due, the total number of paid claims for inpatient discharges used to calculate the qualifying hospital's quarterly supplemental payments, and the amount of quarterly supplemental payments due to be received by the qualifying hospital from the department and each Medicaid managed care organization.

(4) In calculating the quarterly supplemental payments under subsection (3)(a) and (b) of this section for qualifying hospitals that are also classified as a pediatric teaching hospital or as a psychiatric access hospital, no add-on shall be applied to the paid claims for the services for which that hospital also receives supplemental payments pursuant to state plan methodologies and managed care contracts in effect on January 1, 2019.

(5) Each qualifying hospital shall receive four (4) quarterly supplemental payments in the program year, as determined under subsection (3) of this section.

(6) Medicaid managed care organizations shall pay the supplemental payments to qualifying hospitals within five (5) business days of receiving the supplemental capitation payment from the department.

(7) A qualifying hospital shall pay its quarterly assessment no later than fifteen (15) days from the date the qualifying hospital is notified of the assessment from the department. A non-state government-owned hospital may make payment of its assessment through an intergovernmental transfer. The department may delay or withhold a portion of the supplemental payment if a hospital is delinquent in its payment of a quarterly assessment.

(8) The department shall complete the actions required under subsection (3) of this section expeditiously and within the same quarter as all required information is received.

(9) Qualifying hospitals may notify the department of errors in the data used to make a quarterly supplemental payment by providing documentation within thirty (30) days of receipt of a quarterly supplemental payment from a Medicaid managed care organization. If the department agrees that an error occurred in a qualifying hospital's quarterly supplemental payment, the department shall reconcile the payment error through an adjustment in the qualifying hospital's next quarterly supplemental payment.

(10) The programs in this section shall not be implemented if federal financial participation is not available or if the provider tax waiver is not approved. A qualifying hospital shall have no obligation to pay an assessment if any federal agency determines that federal financial participation is not available for any assessment. Any assessments received by the department that cannot be matched with federal funds shall be returned pro rata to the qualified hospitals that paid the assessments.

(11) The department may implement the hospital rate improvement programs only if Medicaid state plan amendments required for federal financial participation are approved by the United States Centers for Medicare and Medicaid Services.

(12) The assessment authorized under Sections 1 to 4 of this Act shall be restricted for use to accomplish the inpatient reimbursement increases established under this section. The Commonwealth shall not maintain or revert funds received under Sections 1 to 4 of this Act to the state general fund except that the department may receive two hundred fifty thousand ($250,000) dollars in state funds each program year to administer the programs. The department shall not establish Medicaid fee-for-service rate-setting methodology changes that result in rate reductions from policies in effect as of October 1, 2018, for acute care hospitals and July 1, 2019, for hospitals paid on a per diem basis.

(13) The department shall promulgate administrative regulations to implement the provisions of Sections 1 to 4 of this Act.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the State Treasury the hospital Medicaid assessment fund for the purpose of holding assessments collected under Section 2 of this Act and funds transferred pursuant to Section 4 of this Act.

(2) All assessments collected shall be deposited into the fund and transferred to the department on a quarterly basis to be distributed only for the purpose of administering the provisions of Section 2 of this Act.

(3) Any fund amounts remaining in the fund after the cessation of the collection of the assessment under Section 2 of this Act shall be refunded to qualifying hospitals on a pro rata basis based upon the assessments paid by each qualifying hospital for the program year that ended immediately before the cessation of the collection of the assessment.

(4) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year and shall be used to reduce the assessments in the subsequent program year.

(5) Any interest earnings of the fund shall become a part of the fund and shall not lapse.

(6) Moneys deposited into the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purpose.

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

Beginning in state fiscal year 2020 and continuing thereafter, the qualifying hospital disproportionate share percentage of the excess disproportionate share taxes shall be transferred to the hospital Medicaid assessment fund and used for the state matching dollars for the payments made under Section 2 of this Act. The university hospital disproportionate share percentage of the excess disproportionate share taxes shall be used for the state matching dollars for supplemental payments to university hospitals or used for state mental hospital reimbursement purposes, as applicable.

Signed by Governor March 26, 2019.

CHAPTER 115

(HB 313)

AN ACT relating to fish and wildlife.

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

➔Section 1. KRS 150.010 is amended to read as follows:

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

(1) "Angling" means the taking or attempting to take fish by hook and line in hand, rod in hand, jugging, setline, or sport fishing trotline;

(2) "Buy" includes offering to buy, acquiring, or possessing through purchase, barter, exchange, or trade;

(3) "Commercial trotline" means a line to which are attached more than fifty (50) single or multibarbed baited hooks, which shall not be placed closer than eighteen (18) inches;

(4) "Commission" means the Department of Fish and Wildlife Resources Commission;

(5) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources;

(6) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset;

(7) "Device" means any article, instrument, or equipment of whatever nature or kind which may be used to take wild animals, wild birds, or fishes;

(8) "Department" means the Department of Fish and Wildlife Resources;

(9) "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not;

(10) "Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object;

(11) "Grabbing" means the taking of fish, frogs, or turtles directly by hand or with the aid of a handled hook;

(12) "Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not;

(13) "Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator;

(14) "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal;

(15) "Jugging" means a means of fishing by which a single baited line is attached to any floating object;

(16) "License" means any document issued by the department authorizing its holder to perform acts authorized by the license and includes any other form of authorization in addition to or in lieu of an actual document which may be authorized by the department by administrative regulation;

(17) "***Light geese" means snow geese and Ross's geese;***

(18) "Light geese conservation order" means a wildlife management action needed to control populations of light geese for a period of time established pursuant to 50 C.F.R. sec. 21.60;

(19) Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;

(***20***~~[18]~~) "Migratory shore or upland game birds" means all species of migratory game birds except waterfowl;

(***21***~~[19]~~) "Minnows" means all fish under six (6) inches in length, except basses, either largemouth, smallmouth or Kentucky; rock bass or goggle-eye; trout; crappie; walleye; sauger; pike; members of the striped bass family; and muskellunge;

(***22***~~[20]~~) "Navigable waters" means any waters within this state under lock and dam;

(***23***~~[21]~~) "Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for thirty (30) days immediately prior to his application for a license;

(***24***~~[22]~~) "Permit" means any document issued by the department authorizing its holder to perform acts authorized by the permit and includes tags ~~[which shall be affixed to wildlife]~~or devices as evidence of holding a permit and includes any other form of authorization in addition to or in lieu of an actual document authorized by the department by administrative regulation;

(***25***~~[23]~~) "Possess" means the act of having or taking into control;

(***26***~~24]~~) "Prescribed by the department" means established by an administrative regulation;

(***27***~~[25]~~) "Processed wildlife" means any wildlife specimen or parts thereof that have been rendered into a permanently preserved state;

(***28***~~[26]~~) "Protected wildlife" means all wildlife except those species declared unprotected by administrative regulations promulgated by the department;

(***29***~~[27]~~) "Public roadway" includes rural roads, highways, bridges, bridge approaches, city streets, viaducts, and bridges which are normally traveled by the general public and are under the jurisdiction of a state, federal, county, or municipal agency;

(***30***~~[28]~~) "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream;

(***31***~~[29]~~) "Raw fur" means a hide, fur, or pelt of a fur-bearing animal which has not been processed. Skinning, stretching, oiling, or coloring of the pelt of the animal shall not be considered processing;

(***32***~~[30]~~) "Administrative regulation" means a written regulation promulgated, pursuant to KRS Chapter 13A, by the commissioner with the approval of the commission;

(***33***~~[31]~~) "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for thirty (30) days immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational institution as full-time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state;

(***34***~~[32]~~) "Resist" means to point a gun at, leave the scene, intimidate or attempt to intimidate in any manner, or further interfere in any manner with any officer in the discharge of his duties;

(***35***~~[33]~~) "Rough fish" means all species of fishes other than those species designated by administrative regulation as sport fishes;

(***36***~~[34]~~) "Sell" includes offering to sell, having or possessing for sale, barter, exchange, or trade;

(***37***~~[35]~~) "Setline" means a line to which is attached one (1) single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole, or other stationary object, on the bank of a stream or impoundment;

(***38***~~[36]~~) "Snagging" means the taking of fish or other aquatic animals through the use of a hand-held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait;

(***39***~~[37]~~) "Sports fishing trotline" means a line to which are attached no more than fifty (50) single or multibarbed baited hooks which shall not be placed closer together than eighteen (18) inches;

(***40***~~[38]~~) "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, snare, or capture wildlife in any way and any lesser act designed to lure, attract, or entice for these purposes; and to place, set, aim, or use any device, animal, substance, or agency which may reasonably be expected to accomplish these acts; or to attempt to do these acts or to assist any other person in the doing of or the attempt to do these acts;

(***41***~~[39]~~) "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and residing in a dwelling on the farms or lands including noncontiguous lands, but shall not include any other employee or tenant unless actually residing on the property and engaged or employed as above mentioned;

(***42***~~[40]~~) "Transport" means to carry, move, or ship wildlife from one place to another;

(***43***~~[41]~~) "Waterfowl" means all species of wild ducks, geese, swans, mergansers, and coots; and

(***44***~~[42]~~) "Wildlife" means any normally undomesticated animal, alive or dead, including without limitations any wild mammal, bird, fish, reptile, amphibian, or other terrestrial or aquatic life, whether or not possessed in controlled environment, bred, hatched, or born in captivity and including any part, product, egg, or offspring thereof, protected or unprotected by this chapter.

➔Section 2. KRS 150.023 is amended to read as follows:

(1) The members of the commission shall meet in Frankfort, quarterly, upon a date to be determined and fixed by the commissioner, or as often as may be necessary for the transaction of business, upon reasonable notice to each member of such meetings. ***Committees created by the commission may meet as often as necessary to conduct their assigned business at locations throughout the Commonwealth. Committees must provide public notice of each meeting including date, time, and location information. Public notice shall be provided no less than seven (7) days before the meeting date.***

(2) The commission shall at all times keep a watchful eye upon the Department of Fish and Wildlife Resources, and advise the commissioner to take such action as may be beneficial to the department and in the interest of wildlife and conservation of natural resources.

(3) The commissioner, with the approval of the commission, shall authorize such scientific and other studies as he deems necessary, and shall collect, classify and disseminate such statistics, data and information as in his discretion will tend to promote the objects of this chapter.

(4) The commissioner, with the approval of the commission, shall have the exclusive power to expend for the protection, conservation, propagation and restoration, and taking and harvesting of all wildlife all funds of the state acquired for the protection, conservation, propagation or restoration of all wildlife arising from licenses, gifts or otherwise.

➔Section 3. KRS 150.095 is amended to read as follows:

~~[(1)]~~Conservation officers are authorized to keep and bear arms upon their person, concealed or otherwise, in the same manner as all other peace officers, and to exercise the use of such arms to such extent as the same may be necessary in the discharge of their duties.

~~[(2) The commissioner may authorize conservation officers and other departmental personnel to use sirens and suitable visible flashing lights on their vehicles in the performance of their duties.]~~

➔Section 4. KRS 150.172 is amended to read as follows:

(1) Any person who is not prohibited by state or federal law from possessing a firearm may carry a firearm and ammunition for that firearm for purposes of self-defense and defense of others while hunting, fishing, trapping, or engaging in any other activity not constituting a crime under KRS Chapter 218A or Chapters 500 to 534, and may do so on any public lands under the control of the department and on any private land under the control of the department, unless the owner of the private land has posted notice that concealed deadly weapons are not allowed in a building where they may be prohibited pursuant to KRS 237.110 or 237.115.

(2) (a) A person may use a firearm, if he or she is not prohibited by state or federal law from possessing a firearm, or may use any other deadly weapon, at any time and during any season to:

1. Kill or attempt to kill an animal, whether protected or unprotected, in self-defense or defense of another person; or

2. Kill or attempt to kill an injured animal for humane purposes***; and***~~[.]~~

In either event, reports the kill or attempted kill to a conservation officer before midnight of the same day as the kill or attempted kill.

(b) An investigation by the department shall be authorized to substantiate and provide evidence on whether the kill or attempted kill of the animal is in violation of paragraph (a) of this subsection or if the animal presents a threat to public health and safety. If no violation is shown to exist, and if there is no threat to public health and safety, then the animal or parts thereof shall:

1. Remain the property and in the possession of the person taking the animal; or

2. If the animal or parts thereof were surrendered to the department, be immediately returned to the person.

(c)~~[(b)]~~ An arrest shall not be made, except upon a warrant issued by a judge of a court of competent jurisdiction, and a citation shall not be issued by a peace officer if an animal is killed under circumstances described in paragraph (a) of this subsection.

(d)~~[(c)]~~ A citation may be issued by a peace officer who witnesses the killing of an animal in violation of a statute or federal regulation under circumstances different from those described in paragraph (a) of this subsection.

(e)~~[(d)]~~ An arrest warrant or a summons may be issued by a judge of a court of competent jurisdiction, upon application of the appropriate county attorney, if the court believes that there is sufficient cause to doubt the claim that the animal was killed under circumstances described in paragraph (a) of this subsection.

(3) In cases where an animal is killed and there is a claim that the animal was killed under circumstances described in paragraph (a) of subsection (2) of this section, the department shall provide~~[forensic evidence or other]~~ competent evidence as to how the animal was killed and the circumstances surrounding the event.

(4) The department shall not promulgate administrative regulations restricting any right provided by this section or the spirit thereof.

(5) This section shall not apply to the killing, wounding, or other prohibited act relating to specific wildlife which are protected by the federal Endangered Species Act, 16 U.S.C. secs. 1531 to 1544; federal Migratory Bird Treaty Act, 16 U.S.C. secs. 703 to 712; or federal Bald and Golden Eagle Protection Act, 16 U.S.C. secs. 668 to 668d.

(6) The principles contained in KRS Chapter 503 relating to the use of force and deadly force against human beings shall apply to acts where wildlife is involved.

➔Section 5. KRS 150.330 is amended to read as follows:

(1) No person shall take, pursue, possess, transport, purchase or sell or attempt to do so, any migratory birds, except as authorized by the Migratory Bird Treaty Act (40 Stat. 755) as amended and regulations under it.

(2) No person sixteen (16) years of age or older shall hunt any waterfowl unless, at the time, in addition to the appropriate state hunting license and ***current migratory bird/waterfowl permit***~~[Kentucky waterfowl stamp]~~, he has on his person a valid migratory bird hunting stamp of current issue as required by the Migratory Bird Hunting Stamp Act (48 Stat. 451) as amended.

➔Section 6. KRS 150.340 is amended to read as follows:

(1) No person shall take more wildlife in any one (1) day than the bag or creel limit prescribed for the species by the department.

(2) A person who has hunted two (2) or more days in succession may transport as personal baggage a total of not more than ***three (3) times***~~[twice]~~ the bag limit as set by the regulations for any one (1) day.

(3) Federal and state regulations shall apply to all migratory birds and waterfowl.

➔Section 7. KRS 150.360 is amended to read as follows:

(1) No person shall take any wildlife, whether protected by this chapter or not, except by trapping, snaring, gig, crossbow, bow and arrow, hook and line, nets, gun, gun and dog, dog, falconry, or as expressly prescribed by regulation.

(2) Shotguns used in the taking of wildlife, protected or unprotected, shall not be larger than 10-gauge and shall be fired from the shoulder. No wildlife, except deer ***or light geese during a light geese conservation order***, protected or unprotected, shall be taken with or by means of any automatic loading or hand-operated repeating shotgun capable of holding more than three (3) shells, the magazine of which has not been cut off or plugged with a one (1) piece filler incapable of removal through the loading end, in such manner as to reduce the capacity of the gun to not more than three (3) shells at one (1) time in the magazine and chamber combined.

(3) No person shall take or attempt to take any wildlife, protected or unprotected, from an automobile, or other vehicle, unless prescribed by regulation. Boats may be used except as prohibited by state or federal regulation.

(4) No person shall discharge any firearm, bow and arrow, crossbow or other similar device, upon, over, or across any public roadway.

(5) No person shall take wildlife, except opossum, raccoon, fishes and frogs, with lights or other means designed to make wildlife visible at night.

(6) Coyotes may be taken at night with or without the use of lights or other means designed to make wildlife visible at night, as established by administrative regulation.

➔Section 8. KRS 150.600 is amended to read as follows:

~~[(1)]~~The commissioner, with the approval of the commission, shall have the authority to regulate the taking of waterfowl within the state and shall further have the power to establish waterfowl refuges and waterfowl shooting grounds, regulate distance of pits and shooting from refuges, either on public or private lands, where hunting or shooting is permitted; to build shooting pits or blinds and make charges for their use; and do anything else necessary to control or improve the conservation or hunting of waterfowl not contrary to federal regulations.

~~[(2) It shall be unlawful for any person for commercial purposes to hold or control land and water, or land and water used or intended to be used in whole or part, or in part for the taking of migratory waterfowl, or have the privilege of taking migratory waterfowl thereon, without first having made application to the department and paying an annual permit fee that will entitle the licensee to possess blinds or pits on said lands or water in conformance with the laws and regulations as set out by the department.~~

~~(3) Any person holding or controlling land and water for commercial purposes used or intended to be used, in the whole or in part for the taking of migratory waterfowl, or for having the privilege of taking migratory waterfowl thereon shall make an application and pay an annual permit fee which entitles the holder thereof to build and construct blinds or pits on said land or water in conformance with the laws and regulations of this department.~~

~~(4) All such permits shall expire each year on the next day after the last day of the season during which it shall be lawful to take migratory waterfowl.~~

~~(5) The holder of such permits shall keep a daily register and kill survey as set out in the regulation.~~

~~(6) No person actually residing on and owning any piece of land and water, or land, or water, shall be required to secure any such permit for the privilege of hunting migratory waterfowl thereon for himself, or his immediate family, or his resident tenants and their immediate families living on the premises, but this privilege cannot be extended to anyone else and all hunting shall conform with the laws and regulations.]~~

➔Section 9. KRS 150.603 is amended to read as follows:

(1) Any person required to possess a hunting license under the provisions of KRS 150.170, except children under sixteen (16) years of age, taking or attempting to take waterfowl within the state shall, in addition to the appropriate hunting license, possess a ***current migratory bird/waterfowl***~~[Kentucky migratory bird]~~ permit. The permit shall be carried while hunting waterfowl.

(2) Any person required to possess a hunting license under the provisions of KRS 150.170, except children under sixteen (16) years of age, taking or attempting to take migratory shore or upland game birds within the state shall, in addition to the appropriate hunting license, possess a ***current migratory bird/waterfowl***~~[Kentucky migratory bird]~~ permit. The permit shall be carried while hunting migratory shore or upland game birds.

(3) The Fish and Wildlife Commission shall administer all revenues generated by the sale of the permits. The revenue from the sale of ***current migratory bird/waterfowl***~~[Kentucky migratory bird]~~ permits shall be expended for waterfowl projects for the purpose of protecting and propagating migratory waterfowl and for the development, restoration, maintenance, and preservation of wetlands within the state. The intent of this section is to expand waterfowl research and management and increase waterfowl populations in the state without

detracting from other programs. The expenditures of funds generated under the provisions of this section shall be included in the annual report provided for in KRS 150.061.

➔Section 10. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by:

(a) The Department of Kentucky State Police;

(b) A public police department;

(c) The Department of Corrections;

(d) A sheriff's office;

(e) A rescue squad;

(f) An emergency management agency if it is a publicly owned vehicle;

(g) An ambulance service or medical first-response provider licensed by the Kentucky Board of Emergency Medical Services, for any vehicle used to respond to emergencies or to transport a patient with a critical medical condition;

(h) Any vehicle commandeered by a police officer;

(i) Any vehicle with the emergency lights required under KRS 189.920 used by a paid or volunteer fireman or paid or volunteer ambulance personnel, or a paid or local emergency management director while responding to an emergency or to a location where an emergency vehicle is on emergency call;

(j) An elected coroner granted permission to equip a publicly or privately owned motor vehicle with lights and siren pursuant to KRS 189.920;~~[or]~~

(k) A deputy coroner granted permission to equip a publicly or privately owned motor vehicle with lights and siren pursuant to KRS 189.920***; or***

(l) A conservation officer of the Kentucky Department of Fish and Wildlife Resources.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

➔Section 11. KRS 186.675 is amended to read as follows:

(1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(1) shall be four dollars and fifty cents ($4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) shall be nineteen dollars and fifty cents ($19.50).

(2) The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of:

(a) Boats;

(b) Luggage;

(c) Personal effects;

(d) Farm products, farm supplies, or farm equipment;

(e) All-terrain vehicles as defined in KRS 189.010(24);

(f) Wildlife as defined in KRS 150.010***(44)***~~[(42)]~~ that the owner or operator of the trailer has obtained while hunting; and

(g) Firearms or other supplies used in conjunction with hunting wildlife.

(3) The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents ($9.50) except the registration fee for camping trailers, travel trailers, and truck campers shall be four dollars and fifty cents ($4.50). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar ($1).

(4) Beginning April 1, 1993, at the request of the owner, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) may be permanently registered, except the registration shall expire when the trailer or semitrailer is sold or when it is otherwise permanently removed from service by the owner. The registration fee for the period shall be ninety-eight dollars ($98). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of three dollars ($3).

Signed by Governor March 26, 2019.

CHAPTER 116

(HB 299)

AN ACT relating to sentencing credits.

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

➔Section 1. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Justice and Public Safety Cabinet;

(2) "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary;

(3) "Department" means Department of Corrections;

(4) "Eligible sexual offender" means a sexual offender for whom the sentencing court, department officials, or both have determined that he or she:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or an intellectual disability; and

(b) Is likely to benefit from the program;

(5) ***"Life skills program" means a program that provides strategies for offenders to assist in removing barriers to successful reintegration into the community and addresses skill areas including time management, money management, use of technology, communication, and social skills;***

(6) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established;

(7) "Promising practices" means programs and strategies that have some research or data showing positive outcomes, but do not have enough evidence yet to meet the standard of an evidence-based program;

(8)~~[(6)]~~ "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in KRS 17.500; and

(9)~~[(7)]~~ "State agency" means any department, board, commission, or agency of the state government.

➔Section 2. KRS 197.045 is amended to read as follows:

(1) Any person convicted and sentenced to a state penal institution:

(a) Shall receive a credit on his or her sentence for:

1. Prior confinement as specified in KRS 532.120;

2. Successfully receiving a High School Equivalency Diploma or a high school diploma, a~~[two (2) or four (4) year]~~ college degree,~~[a two (2) year or four (4) year degree in applied sciences,]~~ a completed ***vocational or*** technical education program, or ***a***~~[an online or]~~ correspondence ***postsecondary*** education program ***which results in a diploma or degree***,~~[each]~~ as provided**,**~~[

~~and]~~ defined***, and approved*** by the department~~[, or a civics education program that requires passing a final exam,]~~ in the amount of ninety (90) days per diploma, degree, or technical education program completed; ~~[and]~~

3. Successfully completing a drug treatment program***,***~~[or other]~~ evidence-based program***, or any other promising practice or life skills program*** approved by the department, in the amount of not more than ninety (90) days for each program completed***. The department shall determine criteria to establish whether a life skills or promising practice program is eligible for sentence credits. Programs shall demonstrate learning of skills necessary for reintegration into the community to minimize barriers to successful reentry. Approval of programs shall be subject to review by the cabinet***; and

(b) May receive a credit on his or her sentence for:

1. Good behavior in an amount not exceeding ten (10) days for each month served, to be determined by the department from the conduct of the prisoner;

2. Performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month; and

3. Acts of exceptional service during times of emergency, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month.

(2) Except for a sentencing credit awarded for prior confinement, the department may forfeit any sentencing credit awarded under subsection (1) of this section previously earned by the prisoner or deny the prisoner the right to earn future sentencing credit in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.

(3) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the sentencing credit computation or in computing dates of expiration of sentence.

(4) Until successful completion of the sex offender treatment program, an eligible sexual offender may earn sentencing credit. However, the sentencing credit shall not be credited to the eligible sexual offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all sentencing credit earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, an eligible sexual offender may continue to earn sentencing credit in the manner provided by administrative regulations promulgated by the Department of Corrections. Any eligible sexual offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his or her sentence. A sexual offender who does not complete the sex offender treatment program for any reason shall serve his or her entire sentence without benefit of sentencing credit, parole, or other form of early release. The provisions of this section shall not apply to any sexual offender convicted before July 15, 1998, or to any sexual offender with an intellectual disability.

(5) (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of sentencing credit and the ability to earn sentencing credit in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, harassing, or factually frivolous.

(b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of sentencing credit forfeited as well as any prohibition imposed on the future earning of sentencing credit.

(6) The provisions in subsection (1)(a)2. of this section shall apply retroactively to July 15, 2011.

Signed by Governor March 26, 2019.

CHAPTER 117

(HB 296)

AN ACT relating to nurses employed by the Kentucky Department of Veterans Affairs.

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

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

(1) The Kentucky Department of Veterans Affairs shall create a loan repayment program for registered nurses and licensed practical nurses within their employ.

(2) The loan repayment program shall apply to any existing student loan incurred by the employee as a result of that employee's academic or technical studies leading to becoming a registered nurse or licensed practical nurse.

(3) The loan repayment program shall not apply to loans previously repaid.

(4) Recipients of the loan repayment program shall sign a contract stipulating:

(a) The recipient's existing student loan debt shall be repaid up to twenty-five percent (25%) of the loan's principal and interest up to a maximum of ten thousand dollars ($10,000) after satisfactory completion of one (1) year of employment at the state veterans' nursing home assigned;

(b) The recipient's student loan shall be repaid up to twenty-five percent (25%) of the loan's principal and interest up to a maximum of ten thousand dollars ($10,000) after satisfactory completion of a second consecutive full year of employment at the state veterans' nursing home assigned;

(c) The recipient's student loan shall be repaid up to twenty-five percent (25%) of the loan's principal and interest up to a maximum of ten thousand dollars ($10,000) after satisfactory completion of a third consecutive full year of employment at the state veterans' nursing home assigned;

(d) The recipient's student loan shall be repaid up to twenty-five percent (25%) of the loan's principal and interest up to a maximum of ten thousand dollars ($10,000) after satisfactory completion of a fourth consecutive full year of employment at the state veterans' nursing home assigned; and

(e) The total amount paid by the loan repayment program shall not exceed forty thousand dollars ($40,000) for a maximum of four (4) consecutive full years of employment per person.

(5) The Kentucky Higher Education Assistance Authority shall administer this program from funds provided by the Kentucky Department of Veterans Affairs as funds are available.

(6) The Kentucky Higher Education Assistance Authority and the Kentucky Department of Veterans Affairs shall promulgate administrative regulations necessary for the effectuation of this Section including limits on the amount of any loan that will be repaid.

➔Section 2. This Act takes effect January 1, 2020.

Signed by Governor March 26, 2019.

CHAPTER 118

(HB 291)

AN ACT relating to auctioneers.

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

➔Section 1. KRS 330.020 is amended to read as follows:

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

(1) "Advertisement" means any written, oral, or electronic communication that:

(a) Offers real or personal property or any combination thereof by or at auction; or

(b) Promotes, solicits, induces, or offers to conduct an auction or to provide auction services;

(2) "Apprentice auctioneer" means any person who is employed or supervised, directly or indirectly, by an auctioneer to deal or engage in any activity in subsection (6) of this section, excluding the authority to enter into an auction listing contract or to independently maintain an auction escrow account;

(3) "Auction" means any method of sale, lease, or exchange of real property, personal property, or any combination thereof, by means of competitively increasing or decreasing bids. Any sale, lease, or exchange of real property, personal property, or any combination thereof, advertised or presented in any way by or at auction, is an auction for the purposes of this chapter;

(4) (a) "Auction house" means any ***fixed-base*** commercial establishment at which personal property is regularly or customarily offered at auction, or at which personal property is customarily or regularly deposited and accepted, on consignment or otherwise, for sale at auction at a fixed location;

(b) "Auction house" does not mean:

1. Those establishments which limit personal property sold in regard to Thoroughbred horses or other horses or any interests therein, including but not limited to horse shares and seasons;

2. Tobacco and fixed-base livestock markets regulated by the United States Department of Agriculture; or

3. Fixed-base motor vehicle markets regulated by the Kentucky Motor Vehicle Commission pursuant to KRS Chapter 190;

(5) "Auction house operator" means the individual principally or ultimately responsible for the operation of an auction house, or in whose principal interest the establishment is operated. The auction house operator is responsible for retaining a licensed auctioneer to call bids at all auctions at the auction house;

(6) "Auctioneer" or "principal auctioneer" means any person who offers, solicits, negotiates, or attempts to offer, solicit, or negotiate an auction listing contract, sale, lease, or exchange of real property, personal property, or any other item of value, or any combination thereof, which may lawfully be kept or offered for sale, lease, or exchange, or any combination thereof, by or at auction, or who offers the same at auction and who is allowed to supervise and accepts the responsibility of sponsoring one (1) or more apprentice auctioneers;

(7) "Board" means the Board of Auctioneers;

(8) ***"Escrow account" means an account, separate from the auctioneer's individual or office account, in which all money belonging to others is held for the preservation and guarantee of funds until disbursement to the appropriate party;***

(9) "Limited livestock auctioneer" means any auctioneer whose professional activities are limited to the calling of bids at the sale of livestock at fixed-based livestock yards operating under the control and guidance of the United States Department of Agriculture;

(10) ~~[(9)]~~ "Personal property" means any tangible or intangible property, goods, services, chattels, merchandise, commodities, or any item of value in any form or type, other than real property, which may be lawfully kept or offered for sale, exchange, or lease;

(11) ~~[(10)]~~ "Person" means any individual, association, partnership, corporation, limited liability company, or other business entity, including any officer, director, or employee thereof;

(12) ~~[(11)]~~ "Real property" means real estate in its ordinary meaning, including but not limited to timeshares, options, leaseholds, and other interests less than leaseholds of any form or type which may be lawfully kept or offered for sale, exchange, or lease; and

(13) ~~[(12)]~~ "Sealed bid auction" means a sealed bidding procedure which incorporates or allows for any competitive increasing or decreasing of bids after the opening of sealed bids. A "sealed bid auction" is an auction subject to the provisions of this chapter.

➔Section 2. KRS 330.030 is amended to read as follows:

(1) It is unlawful for any person to advertise or act as an auctioneer or apprentice auctioneer within the Commonwealth, or advertise or act as an auctioneer or apprentice auctioneer of real or personal property located within the Commonwealth, without a license issued by the board.

(2) It is unlawful for any person to advertise or act as a limited livestock auctioneer within the Commonwealth without a license issued by the board.

(3) (a) It is unlawful for any person to advertise or act as an auction house operator within the Commonwealth without a license issued by the board.

(b) An auction house operator shall be a licensed auctioneer or apprentice auctioneer if he or she acts as an auctioneer or apprentice auctioneer. If licensed as an auctioneer, an auction house operator license shall not be required.

(c) If an auction house operator conducts and operates more than one (1) auction house, a license shall be issued for each location, and the initial and renewal fees shall be applicable.

(d) This subsection applies to each co-owner or manager of an auction house who actively participates in the operation of the auction house, but who is not an auctioneer.

(4) (a) Each licensed principal auctioneer or auction house operator who takes possession of money for another in relation to an auction shall maintain at least one (1) escrow account.

(b) If a licensee already maintains an escrow account due to licensure pursuant to KRS Chapter 324, Chapter 324A, or Chapter 198B, the licensee shall not be required to maintain a second, separate escrow account.

➔Section 3. KRS 330.060 is amended to read as follows:

(1) (a) Every applicant for licensure shall be at least eighteen (18) years of age, show proof of a high school diploma or equivalent, and, within the preceding five (5) years, shall not have committed any act that constitutes grounds for license suspension or revocation under this chapter.

(b) The board may waive the high school diploma or equivalent requirement ***if the applicant demonstrates sufficient life experience and competency by affidavit or other evidence as required by the board*** ~~[for an apprentice, licensed prior to 1985, applying for an auctioneer license]~~.

(c) Any license issued pursuant to this chapter shall be granted only to a person found to be of good repute, trustworthy, and competent to transact the business for which the license was granted in a manner requisite to safeguarding the interest of the public.

(d) Effective July 1, 2015, an applicant for an apprentice auctioneer license or auction house operator's license shall have successfully completed at least twelve (12) hours of approved classroom instruction, consisting of the core course and six (6) additional hours as prescribed by the board, from a board-approved auction education provider.

(e) The board may waive the twelve (12) hours of approved classroom instruction requirement if the applicant demonstrates sufficient previous auction experience and competency by affidavit or other evidence as required by the board.

(2) The board is authorized to require information from every applicant to determine the applicant's honesty and truthfulness.

(3) (a) Every applicant shall successfully complete an examination, conducted by the board or its authorized representative. Every application for examination shall be submitted on board-prepared forms, and each applicant shall furnish pertinent background data as outlined on the forms.

(b) To defray the cost of administration of the examination, the board shall require each applicant to remit an examination fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(c) Examination fees shall be nonrefundable.

(d) If the applicant is unable to attend the scheduled exam, the examination fee shall be deferred to the next scheduled administration of the examination.

(e) Upon successful completion of the examination, the applicant shall apply for initial licensure within forty-five (45) days of receiving notice of successfully completing the examination.

(f) The examination shall be of the scope and wording sufficient in the judgment of the board to establish the competency of the applicant to act as an auctioneer or other licensee regulated by the board.

(4) If a license has been revoked, suspended, or is allowed to expire without renewal, the board may require the applicant to pass the written examination or complete some form of board-approved auction education before a license may be issued.

(5) If a license has not been renewed within six (6) months of the expiration date, the board shall require a person to successfully complete the written examination before a license is issued.

(6) In addition, every nonresident applicant shall file an irrevocable consent that actions may be commenced against the applicant in any court of competent jurisdiction in the Commonwealth of Kentucky, by the service of any summons, process, or pleadings authorized by law on the authorized representative of the board. The consent shall stipulate and agree that the service of any summons, process, or pleadings on the authorized representative shall be taken and held in all courts to be as valid and binding as if actual service had been made upon the applicant in Kentucky. In case any summons, process, or pleadings are served upon the authorized representative of the board, it shall be by duplicate copies, one (1) of which shall be retained in the office of the board, and the other immediately forwarded by certified mail, return receipt requested, to the last known business address of the applicant against whom the summons, process, or pleadings are directed.

➔Section 4. KRS 330.110 is amended to read as follows:

The board may suspend for a period up to five (5) years or revoke the license of any licensee, or levy fines not to exceed two thousand dollars ($2,000), with a maximum fine of five thousand dollars ($5,000) per year arising from any single incident or complaint, against any licensee, or place any licensee on probation for a period of up to five (5) years, or require successful passage of any examination administered by the board, or require successful completion of any course of auction study or auction seminars designated by the board, or issue a formal reprimand, or order any combination of the above, for violation by any licensee of any of the provisions of this chapter, or for any of the following causes:

(1) Obtaining a license through false or fraudulent representation;

(2) Making any substantial misrepresentation;

(3) Pursuing a continued and flagrant course of misrepresentation or intentionally making false promises or disseminating misleading information through agents or advertising or otherwise;

(4) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, except his or her principal auctioneer;

(5) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession, commingling funds of others with the licensee's own funds, or failing to keep the funds of others in an escrow or trustee account;

(6) Paying valuable consideration to any person for services performed in violation of this chapter, or procuring, permitting, aiding, or abetting any unlicensed person acting in violation of any of the provisions of this chapter;

(7) Entering a plea of guilty, an Alford plea, a plea of no contest to, or being convicted of, any felony, and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal;

(8) Violation of any provision of this chapter or any administrative regulation promulgated by the board;

(9) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by any licensee to each signatory of the written instrument;

(10) Any conduct of a licensee which demonstrates bad faith, dishonesty, incompetence, or untruthfulness;

(11) Any other conduct that constitutes improper, fraudulent, dishonest, or negligent dealings;

(12) Failure to enter into a binding written auction listing contract with the seller or with the seller's duly authorized agent prior to advertising, promoting, or offering any real or personal property by or at auction;

(13) Failure to provide a receipt to all persons consigning personal property with any licensee for auction;

(14) Failure to establish and maintain, for a minimum of five (5) years from final settlement, complete and correct written or electronic records and accounts of all auction transactions, including:

(a) Listing contracts, including the name and address of the seller;

(b) Written purchase contracts;

(c) Descriptive inventory and final bid amounts of all items or lots offered;

(d) Buyer registration records; and

(e) Settlement records, including all moneys received and disbursed and escrow account activity;

(15) Failure of any licensee to ***deliver within thirty (30) days***~~[present]~~ any auction-related information, including but not limited to advertisements, listing contracts, purchase contracts, clerking records, buyer registration records, settlement records, escrow account information, license, or any other auction-related information ***to the board or the board's designee upon request***~~[, subsequent to a request by the board's executive director, a board compliance officer, or board counsel]~~; or

(16) Failure of a principal auctioneer to provide supervision to his or her apprentice auctioneers ***to ensure compliance with this chapter and the administrative regulations promulgated thereunder***.

➔Section 5. KRS 330.220 is amended to read as follows:

(1) If real or personal property is offered in lots or parcels in a sale by auction, each lot or parcel shall be the subject of a separate sale. This subsection shall not preclude real or personal property from being offered for bidding individually or in some form or combination.

(2) Unless otherwise provided in the conditions of sale for auctions regarding horses or any interests therein, a sale by auction is complete when the auctioneer so announces by the fall of the hammer, announcing the item sold, and the successful bidder's identification or in other customary manner. If it becomes immediately apparent at the close of the bidding that the auctioneer and a bid assistant or ringman have acknowledged the same bid from different bidders, the auctioneer may continue the bidding between the disputed bidders. When a bid is made while the auctioneer is in the process of completing the sale by auction, the auctioneer may continue the bidding or declare the real or personal property sold under the bid on which the hammer was falling.

(3) No auction shall be advertised as "absolute" nor shall any advertising contain the words "absolute auction" or the word "absolute" or words with similar meaning nor shall any licensee offer or sell any real or personal property at absolute auction unless:

(a) There are no liens or encumbrances on the real or personal property, except property tax obligations, easements, or restrictions of record, in favor of any person, firm, or corporation other than the seller, or unless each and every holder of each and every lien and encumbrance, by execution of the auction listing contract, or otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have agreed to the unqualified acceptance of the highest bid for the property, without regard to the amount of the highest bid or the identity of the high bidder; or, alternatively, that a financially responsible person, firm, or corporation, by execution of the auction listing contract or by otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have absolutely guaranteed the forthwith and complete discharge and satisfaction of any and all liens and encumbrances immediately after the sale or at the closing, without regard to the amount of the highest bid received, or the identity of the high bidder; and

(b) There is the bona fide intention at the time of the advertising and at the time of the auction to transfer ownership of the real or personal property, regardless of the amount of the highest and last bid, to the high bidder, ***subject to the provisions of subsection (5)(b) of this section,*** that intent existing without reliance on any agreement that any particular bid or bid level must be made or be reached, below which level the real or personal property would not be transferred to the high bidder; and

(c) The auction listing contract contains a binding requirement that the auction be conducted without reserve, and includes an acknowledgment that the seller, or anyone acting upon behalf of the seller, shall not bid at the absolute auction, or otherwise participate in the bidding process.

(4) Compliance with subsection (3) of this section shall not prohibit:

(a) A secured party or other lienholder who is not the seller from bidding at an absolute auction, providing that such bidding does not constitute, nor is it tantamount to the direct or indirect establishment or agreement to the establishment of a reserve price on the real or personal property by the seller or by the auctioneer, or by anyone aiding or assisting, or acting upon behalf of, the seller or the auctioneer; or

(b) Any individual party to the dissolution of any marriage, partnership, trust, limited liability company, or corporation from bidding as an individual entity apart from the selling entity, on real or personal property being sold at auction pursuant to that dissolution; or

(c) Any individual party or heir of a deceased person's bona fide estate from bidding as an individual entity, apart from the selling entity, on real or personal property being offered at auction pursuant to that estate settlement; or

(d) The inclusion of nonmisleading advertising of certain real or personal property to be sold at "absolute auction" and the nonmisleading advertising of certain real or personal property to be offered at auction with reserve, within the same advertisement, or for sale at the same date and place, providing that advertisement shall make clearly apparent through equal or appropriate emphasis, which real or personal property is being offered by each method.

(5) ***(a)*** Any auction sale is, without requirement of announcement at any time, presumed to be with reserve unless the real or personal property is in explicit terms offered at absolute auction. An auction without reserve means an absolute auction. An auction with reserve means the real or personal property may be offered subject to the seller's confirmation or subject to a certain reserve price. In an auction with reserve, the auctioneer may withdraw the real or personal property at any time until he or she announces completion of the sale. In an absolute auction, after the auctioneer calls for bids on an article, lot, or parcel, that article, lot, or parcel shall not be withdrawn unless no bid is made within a reasonable time.

(b) At both reserve auctions and without reserve auctions, the auctioneer may establish reasonable ***minimum*** bid increments once an opening bid has been offered.

(6) (a) The provisions of this chapter shall not prohibit any licensee from bidding on his or her own behalf at any auction sale, whether absolute or with reserve, if his or her option to do so has been fully disclosed, including disclosure to the seller.

(b) Except as provided in subsection (4) of this section, the seller may not bid at an absolute auction, nor may anyone bid upon his or her behalf. No licensee shall knowingly receive a bid by or on behalf of the seller at an absolute auction.

(c) Bids may be made by the seller, or upon the seller's behalf, at any auction with reserve, provided that full disclosure has clearly been made that liberty for bidding is retained. No licensee shall knowingly receive a bid in the absence of full disclosure. If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures a bid and notice has not been clearly given that liberty for bidding is reserved, the buyer may avoid the sale or take the real or personal property at the price of the last good faith bid prior to the completion of the sale.

(d) There shall be no requirement that the reserve be announced when it is attained.

(e) Nothing in this subsection shall be construed to alter or diminish the provisions of KRS 330.210.

(7) (a) At any absolute auction, any advertisement or representation of a minimum or suggested starting bid is prohibited.

(b) At any reserve auction, any advertisement or representation of a minimum or suggested starting bid is prohibited unless:

1. The minimum or suggested starting bid advertised or represented is sufficient to satisfy the auction listing contract stated reserve or confirmation amount; and

2. The auction listing contract contains a binding acknowledgment by the seller that permission has been granted for disclosure.

➔Section 6. KRS 330.990 is amended to read as follows:

(1) Any person engaging in auction activities regulated by this chapter without a license shall be guilty of:

(a) For the first offense, a violation with a fine up to two hundred fifty dollars ($250);

(b) For the second offense, a Class B misdemeanor with a fine up to two hundred fifty dollars ($250) and up to ninety (90) days imprisonment; and

(c) For the third and subsequent offenses, a Class A misdemeanor with a fine up to five hundred dollars ($500) and up to twelve (12) months imprisonment.

(2) The board or its authorized representative may apply for injunctive relief to the Circuit Court of the county in which the alleged violation occurred ***or in which the alleged offender resides*** to enjoin any person or entity from committing an act in violation of this chapter. The injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies in this chapter. In an action for injunction, the board may demand and recover a civil penalty of fifty dollars ($50) per day for each violation, reasonable attorney's fees, and court costs.

Signed by Governor March 26, 2019.

CHAPTER 119

(HB 287)

AN ACT relating to the Department for Local Government.

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

➔Section 1. The following KRS section is repealed:

147A.023 Legislative findings -- Department for Local Government to encourage growth of broadband and information technology in state.

➔Section 2. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section;

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists;

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the Department for Local Government to carry out its duties under this section;

(d) At its discretion, to compile and publish annually a report on local government; and

(e) To administer the provisions of KRS 65A.010 to 65A.090.

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Joint Funding Administration Program;

(j) State clearinghouse for A-95 review;

(k) The memorandums of agreement with the area development districts to provide management assistance to local governments; and

(l) The urban development office.

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

(5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

~~[(6) The Department for Local Government shall encourage broadband and information technology deployment and adoption throughout Kentucky in accordance with KRS 147A.023.]~~

Signed by Governor March 26, 2019.

CHAPTER 120

(HB 285)

AN ACT relating to consumer loan companies.

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

➔Section 1. KRS 286.4-410 is amended to read as follows:

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

(a) ***"Applicant" means a person filing an application under this subtitle;***~~["Commissioner" means the commissioner of financial institutions; and]~~

(b) ***"Consumer loan company" means a person licensed under this subtitle to engage in the business of making loans to a consumer for personal, family, or household use in the amount or value of fifteen thousand dollars ($15,000) or less;***

(c) "Control" means the power to direct the management or policies of a licensee or applicant, whether through ownership of securities, by contract, or otherwise;

(d) "Executive officer" means a natural person holding the title or responsibility of president, vice president, chief executive officer, chief financial officer, chief operational officer, or chief compliance officer;

(e) "Licensee" means a person licensed under this subtitle;~~[and]~~

(f) "Managing principal" means a natural person who meets the requirements of Section 4 of this Act and actively participates in and is primarily responsible for the operations of a licensee;

(g) "Material fact" means a fact that a reasonable person knows, or should know, that could reasonably be expected to influence any decision or action taken by the commissioner under this subtitle;

(h) "Nationwide consumer reporting agency" means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as defined by Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. sec. 1681a(p); and

(i) "Person in control of a licensee or applicant" means, with respect to an applicant or licensee, any of the following:

1. A director, general partner, or executive officer;

2. In the case of a limited liability company, a managing member or manager;

3. Any person who directly or indirectly has the right to vote twenty-five percent (25%) or more of a class of voting securities;

4. Any person who has the power to sell or direct the sale of twenty-five percent (25%) or more of a class of voting securities;

5. In the case of a partnership or limited liability company, any person that has the right to receive twenty-five percent (25%) or more of the capital upon dissolution; or

6. Any person that exercises control

~~[(c) "Person" means an individual, partnership, association, trust, corporation and any other legal entity]~~.

(2) This subtitle shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, ***savings***~~[building]~~ and loan associations, ***agricultural*** cooperative~~[marketing]~~ associations, credit unions, ***industrial*** loan~~[and investment]~~ companies, or licensed pawnbrokers. This subtitle does not apply to the purchase or acquisition, directly or indirectly, of notes, chattel mortgages, installment or conditional sales contracts, embodying liens or evidencing title retention arising from the bona fide sale of goods or services by a seller of ***the***~~[such]~~ goods or services.

➔Section 2. KRS 286.4-430 is amended to read as follows:

(1) Each application for a license under this subtitle shall be made in writing, under oath or affirmation, in ***a***~~[such]~~ form~~[as]~~ the commissioner prescribes.

(2) ***Each***~~[The]~~ application shall contain ***the following information***:

(a) In the case of an ***applicant that is a natural person,***~~[individual, his]~~ ***the*** name***, electronic mail address,*** and ~~[the]~~***physical*** address of ***the***~~[his]~~ residence and place of business ***of both the applicant and, if applicable, the managing principal***;

(b) In the case of ***an applicant that is*** a partnership***, limited liability company,*** or association***:***~~[, the name]~~

1. Names, electronic mail addresses, and ***physical addresses***~~[address]~~ of every member ***and managing principal;***~~[thereof]~~ and~~[the]~~

2. The physical address~~[of the place]~~ where the business is to be conducted;

(c) In the case of ***an applicant that is*** a corporation***:***~~[, the]~~

1. The names***, electronic mail addresses,*** and ***physical*** addresses of the principal officers,~~[and]~~ directors***, and managing principal;***~~[thereof]~~ and~~[the]~~

2. The physical address of the place where the business is to be conducted; and

(d) Such additional information as the commissioner prescribes.

➔Section 3. KRS 286.4-440 is amended to read as follows:

~~[(1)]~~Each applicant***,*** at the time of making application***,*** shall pay ***the following to the commissioner:***

(1) Five hundred dollars ($500)~~[two hundred fifty dollars ($250) to the commissioner]~~ as a fee for investigating the application ***to conduct business as a consumer loan company***~~[for the initial location]~~ in Kentucky***;***~~[, or a fee of one hundred fifty dollars ($150) for additional locations,]~~ and

(2) The additional sum of ***five hundred dollars ($500)***~~[four hundred dollars ($400)]~~ as an annual license fee for each location for the period terminating on the last day of the current calendar year.~~[If the application is filed after June 30 in any year, the payment shall be two hundred dollars ($200) as a license fee in addition to the fee for investigation.~~

~~(2) If any person regulated by the department desires to purchase an existing licensed location or locations, the person shall submit an application to the commissioner containing the information as the commissioner may prescribe. The fee for this application shall be one hundred dollars ($100) per location not to exceed one thousand dollars ($1,000).]~~

➔Section 4. KRS 286.4-450 is amended to read as follows:

(1) ***For any new application for a license, submitted on or after January 1, 2020, to qualify for a license, an applicant shall satisfy and maintain, for the duration of licensure under this subtitle, the following bonding requirements, which shall cover all licensed locations:***

(a) The applicant shall deposit with the commissioner, in a form directed by the commissioner, one (1) of the following instruments that satisfy the requirements of paragraph (b) of this subsection:

1. An irrevocable letter of credit;

2. A corporate surety bond;

3. Evidence that the applicant has established an account payable to the commissioner in a federally insured financial institution in this state and has deposited United States currency in an amount that satisfies the requirements of paragraph (b) of this subsection, with a signed and notarized acknowledgement from the financial institution; or

4. A savings certificate of a federally insured financial institution in this state that is not available for withdrawal except by direct order of the commissioner, with a signed and notarized acknowledgement from the financial institution. Interest earned on the certificate shall accrue to the applicant;

(b) The instruments identified in paragraph (a) of this subsection shall:

1. Be made payable to the commissioner;

2. Be in the following amounts:

a. One hundred thousand dollars ($100,000), if the applicant is privately held; or

b. Two hundred fifty thousand dollars ($250,000), if the applicant is publicly traded;

3. Provide for claim on the instrument by the commissioner who has a cause of action under this subtitle. The total liability of the surety, cumulative or otherwise, shall not exceed the amount specified in the instrument; and

4. Be available for the recovery of expenses, fines, and fees levied or imposed by the commissioner under this subtitle, and for losses or damages that are determined by the commissioner to have been incurred by any customer as a result of the applicant's or licensee's failure to comply with the requirements of this subtitle; and

(c) No claim shall be maintained to enforce any liability on an instrument under this subsection unless the claim is brought within three (3) years after the act upon which it is based.

(2) (a) For any application submitted on or after January 1, 2020, including renewal applications, an applicant or licensee shall demonstrate that its financial condition is sufficient to effectively conduct the business of a licensee in one (1) or more licensed Kentucky locations by having and maintaining, for the duration of licensure under this subtitle:

1. If the applicant is privately held:

a. A total net worth of at least fifty thousand dollars ($50,000), when receivables are one million dollars ($1,000,000) or less; or

b. A total net worth of at least one hundred thousand dollars ($100,000), when receivables are more than one million dollars ($1,000,000); or

2. If the applicant is publicly traded, a total net worth in excess of two hundred fifty thousand dollars ($250,000).

(b) For the purposes of this subsection, receivables shall be determined upon the initial application, or for renewal applications, based on the most recent annual report filed under KRS 286.4-590.

(3) (a) Each applicant shall have, at the time of making application and for the duration of licensure under this subtitle, at least one (1) managing principal.

(b) Prior to a change in managing principal, each licensee shall file a written request for the change with the department. The written request shall include sufficient proof that the new managing principal has experience to satisfy the requirements of this subsection, and the commissioner may deny the requested change.

(c) Each person named as a managing principal in an application or written request under this subsection shall provide the commissioner with sufficient proof that the managing principal has at least two (2) years of lending experience working in a financial institution. The commissioner shall determine from the application or written request whether an applicant has sufficient experience to satisfy this requirement and may withhold approval based on this determination.

(4) (a) At the time of application, the commissioner shall require each managing principal and person in control of an applicant or licensee to submit to a criminal background check.

(b) The cost of each records background check shall be borne by the applicant or licensee.

(5) ***The commissioner may deem an application incomplete if the applicant fails to pay any fee, or submit any documentation or information, required under this subtitle within sixty (60) days from the date the application was filed. After sixty (60) days, if the application is incomplete, it shall be considered abandoned.***

(6) ***(a)*** ***Once a completed application is filed, and after an investigation,*** the commissioner shall~~[, after investigation,]~~ issue to the applicant a license to make loans in accordance with this subtitle, if the commissioner~~[:~~

~~(a) Approves the form of the application;~~

~~(b)]~~ finds that the financial responsibility, ***financial condition,*** experience, character, and general fitness of the applicant ***reasonably demonstrate that***~~[, and of the members thereof if the applicant is a partnership or association, and of the officers and directors thereof if the applicant is a corporation, command the confidence of the community and to warrant the belief that the business of]~~ the applicant***, its managing principal, and each person in control of the applicant*** will ***operate***~~[be operated]~~ honestly, fairly, and efficiently in accordance with the purposes of this subtitle~~[; and~~

~~(c) Finds that the applicant has complied with KRS 286.4-440]~~.

(b)~~[(2)]~~ If the commissioner ***finds that the applicant does not meet the requirements under paragraph (a) of this subsection***~~[does not so find]~~, he or she shall not issue a license and shall~~[notify the applicant of the denial and]~~ return ***any license fee***~~[the sum]~~ paid by the applicant~~[as a license fee]~~, ***but shall retain the five hundred dollars ($500)*** ~~[retaining the two hundred fifty dollars ($250)]~~ investigation fee to cover the cost of investigating the application.

(c) ***When determining whether an applicant has satisfied the qualifications required under this subsection, the commissioner shall consider the grounds set forth in Section 8 of this Act.***

(d)~~[(3)]~~ The commissioner shall approve or deny every application for license within sixty (60) days from the ***receipt of a completed application,***~~[filing thereof with the fees]~~ unless the time is extended by a written agreement between the applicant and the commissioner.

(e) If the commissioner denies a license, the applicant may***, within twenty (20) days from the date of denial, file a written petition requesting a hearing to*** appeal ***with the office of the commissioner. Upon the timely filing of a petition to appeal***,~~[and upon appeal]~~ an administrative hearing shall be conducted in accordance with KRS Chapter 13B***. If the applicant does not file a petition within the required time frame, he or she shall be deemed to have waived the right to appeal***.

(f)~~[(4)]~~ The official record of the hearing shall be filed in the office of the commissioner as ***a*** public ***record***~~[records]~~, open to public inspection.

(7) ***Any applicant, or person in control of an applicant, that has a license denied by the commissioner shall not be eligible to apply for a license under this subtitle, or serve as a person in control of an applicant or licensee, until the expiration of one (1) year from the date a final order denying the license is entered by the commissioner.***

➔Section 5. KRS 286.4-460 is amended to read as follows:

(1) Every license shall state the ***physical*** address of the office at which the business is to be conducted, the name of the licensee, ***any assumed names used by the licensee at that location,*** and ***the initial date of licensure***~~[if the licensee is a partnership or association, and the names of the members thereof]~~.

(2) The license~~[shall be kept displayed in the office of the licensee and]~~ shall not be transferable or assignable ***without the prior written approval of the commissioner pursuant to Section 16 of this Act***. Not more than one (1) place of business shall be maintained under the same license but the commissioner may issue more than one (1) license to the same licensee upon compliance with all the provisions of this subtitle for each license***,***~~[;]~~ ***except that***~~[provided, however,]~~ nothing herein shall be deemed to require a license for any place of business devoted to accounting, recordkeeping***,*** or administrative purposes.

(3) Whenever a licensee desires to change ***the physical***~~[his or her]~~ place of business to another location***,***~~[within the same county]~~ the licensee shall give written notice to the commissioner ***at least fifteen (15) days prior to the location change***~~[, who, if he or she finds that the interests of the community will be served thereby, shall indorse on the license a transfer to the new place of business, with the date of transfer, which indorsement shall be authority for the operation of the business at the new location. No change in the place of business of a licensee to a location outside of the original county shall be permitted under the same license]~~.

(4) No licensee shall transact business for which this subtitle requires a license under a name that is not designated on the license, unless the licensee has given written notice to the commissioner at least thirty (30) days prior to the name change.

➔Section 6. KRS 286.4-470 is amended to read as follows:

(1) No licensee shall conduct the business authorized by this subtitle in any office, room, or place of business in which any other business, except purchase of retail and installment sales contracts***, tax preparation,*** and motor club memberships, is solicited or engaged in, or in association or conjunction therewith, except upon a written authorization from the commissioner. ***The commissioner shall have sixty (60) days to either approve or deny the written authorization request.***

(2) Nothing in this subtitle shall be construed to limit the loans of any licensee to residents of the community in which the licensed place of business is situated, nor to prohibit the making and collecting of loans by mail.

(3) Nothing in this subtitle shall be construed to limit the ability of any licensee to make a loan or loans in the principal amount greater than fifteen thousand dollars ($15,000) at the licensed location at the same rates as provided in KRS 360.010.

➔Section 7. KRS 286.4-480 is amended to read as follows:

(1) Each license shall remain in full force and effect until it is surrendered by the licensee***,***~~[or]~~ suspended***,***~~[or]~~ revoked***, or expired*** as provided in this subtitle. Each licensee shall, on or before each December ***31***~~[20]~~, pay to the commissioner the annual license fee for the next succeeding calendar year.

(2) Failure of a licensee to pay the annual license fee required by this section shall result in the expiration of the licensee's license on January 1 of the following year.

(3) The commissioner may reinstate an expired license if, within thirty-one (31) days of expiration, the licensee:

(a) Satisfies all requirements set forth in this subtitle; and

(b) Pays a one hundred dollar ($100) late fee.

(4) Any reinstatement under subsection (3) of this section shall be retroactive to January 1 of the calendar year in which it expired.

➔SECTION 8. KRS 286.4-490 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) For the purposes of this section, "adverse action" means the suspension of, revocation of, conditioning or restricting of, or refusal to issue or renew a license or acceptance of the surrender of a license in lieu of a revocation or suspension.

(2) The commissioner may take adverse action against a licensee, applicant, or person in control of a licensee or applicant, or issue a cease-and-desist order to one of those persons, if the commissioner finds, after a thorough investigation, that the person:

(a) Has failed to open an office within one hundred twenty (120) days from the date a license is granted unless good cause is shown;

(b) Has committed fraud or made a misrepresentation of material fact;

(c) Does not meet, has failed to comply with, or has violated any provisions of this subtitle, or any administrative regulation or order of the commissioner issued under the subtitle;

(d) Has made a false statement of material fact in the application for a license or failed to give a truthful reply to a question in the application;

(e) Has demonstrated incompetence or untrustworthiness to act as a licensee;

(f) Is unfit, through lack of financial responsibility or experience, to conduct the business of a licensee;

(g) Does not conduct business in accordance with the law or conducts business by a method that includes activities that are illegal where performed;

(h) Is insolvent;

(i) Is the subject of an active administrative cease-and-desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state law applicable to the financial services industry;

(j) Has made or caused to be made to the commissioner a false representation of material fact or has suppressed or withheld from the commissioner information that the applicant or licensee possesses and which, if submitted, would have rendered the applicant or licensee ineligible to be licensed under this subtitle;

(k) Has refused to permit a lawful examination or investigation by the commissioner, or has refused or failed, within a reasonable time, to furnish to the commissioner any information or records, or make any report, that may be required under this subtitle;

(l) Has been convicted of a felony;

(m) Has been convicted of any misdemeanor of which an essential element is fraud, breach of trust, or dishonesty;

(n) Has had any license, registration, or claim of exemption related to the financial services industry denied, revoked, suspended, conditioned, restricted, or probated under the laws of this state, or has surrendered, withdrawn, or terminated any license, registration, or claim of exemption issued or registration granted by this state under threat of administrative action;

(o) Has knowingly employed or contracted with a person who has failed to obtain any necessary license or registration related to the financial services industry or has had a license, registration, or claim of exemption related to the financial services industry denied, revoked, suspended, conditioned, restricted, or probated in this state or another jurisdiction;

(p) Has failed to pay any fee required under this subtitle;

(q) Has failed to comply with an administrative or court order imposing child support obligations;

(r) Has failed to pay state income taxes or comply with any administrative or court order directing the payment of state income tax;

(s) Has filed for an adjudication of bankruptcy, reorganization, arrangement, or other relief under the United States Bankruptcy Code, 11 U.S.C. secs. 101 to 110, within the last ten (10) years;

(t) Has suspended payment of its obligations or has made an assignment for the benefit of its creditors;

(u) Has violated any of the recordkeeping and reporting requirements of the United States government, including 31 U.S.C. secs. 5311 to 5332; or

(v) No longer meets the requirements of this subtitle to hold a license.

(3) If the reason for adverse action taken by the commissioner at any one location is generally applicable to all locations operated by a licensee, the commissioner may apply the adverse action to all licenses issued to a licensee.

(4) Any person, or person in control of a licensee, who has had a license revoked by the commissioner shall not be eligible to apply for a license under this subtitle or to serve as a person in control of a licensee until after expiration of two (2) years from the date a final order of revocation is entered by the commissioner. A person whose license has been revoked twice shall be deemed permanently revoked and shall not be eligible for a license, or to serve as a person in control of a licensee, under this subtitle.

(5) A person, or person in control of a licensee, against whose license adverse action has been taken under this section shall not:

(a) Participate in any business for which a license is required under this subtitle; or

(b) Engage in any business activity on the premises where a licensee is conducting its business without prior written approval of the commissioner.

(6) (a) Adverse action taken against a license, or the expiration of a license, shall not abrogate or modify:

1. The civil or criminal liability of a licensee for acts committed prior to the surrender or expiration; or

2. The obligation of any preexisting contract between a licensee and a customer.

(b) The surrender or expiration of a license shall not affect a proceeding to suspend or revoke a license.

(7) (a) If the commissioner has reason to believe from evidence satisfactory to the commissioner that a person has violated, or is about to violate, a provision in this subtitle, the commissioner may file a complaint in the Franklin Circuit Court, or any court of competent jurisdiction, for temporary or permanent relief against any person.

(b) The court shall have jurisdiction over the proceeding and shall have the power to enter an order or judgment awarding preliminary or final injunctive relief and any other relief that the court deems proper.

(c) Any person who violates a temporary restraining order or injunction issued by the court, in addition to being held in contempt of court, may be assessed a civil penalty under Section 21 of this Act by the court.

➔Section 9. KRS 286.4-500 is amended to read as follows:

(1) (a) Notice of entry of any order denying a license shall be in writing and served personally or sent by certified mail to the last known address of the applicant.

(b) A person whose application has been denied may, within twenty (20) days of service of the notice, submit a written petition to the commissioner requesting a hearing. The hearing shall be held in accordance with KRS Chapter 13B.

(c) If no written petition is received, the commissioner may enter a final order denying the license.

(2) (a) The commissioner may file an administrative complaint against any person or licensee that the commissioner believes has or may have violated this subtitle and the violation of which is subject to the penalties set forth in Section 8 or 21 of this Act.

(b) 1. The commissioner shall serve an administrative complaint against a person or licensee personally or by certified mail, return receipt requested, postage prepaid, to the last known address of each person or licensee named in the complaint.

2. The person or licensee named in the complaint shall be entitled to a hearing on the complaint, held in accordance with KRS Chapter 13B. A written request for a hearing shall be submitted to the department, along with a written answer to the complaint, within twenty (20) days of being served the complaint.

3. If a written answer and request for hearing are not filed within twenty (20) days of being served the complaint, the person or licensee shall be deemed to have waived the hearing and the commissioner may enter a final order granting the relief requested in the complaint.

(3) Whenever the commissioner denies any application for a license ***or assesses any of the penalties set forth in Section 8 or 21 of this Act***~~[under the provisions of this subtitle or revokes any license issued pursuant to this subtitle]~~, the commissioner shall~~[forthwith]~~ file in his or her office a written order to that effect, stating his or her findings with respect ***to the order***~~[thereto]~~ and the reasons for the action.~~[The commissioner shall also forthwith serve upon the applicant for license or licensee a copy of the order, and the applicant or licensee may appeal to the Circuit Court of Franklin County, within thirty (30) days after the service of a copy of the order.]~~

(4) Any final order shall be served in the same manner as an administrative complaint under subsection (2) of this section.

(5) Service by certified mail under this subtitle shall be deemed complete as provided in KRS 13B.050(2).

➔Section 10. KRS 286.4-533 is amended to read as follows:

Notwithstanding the provisions of KRS 286.4-530(10) or of any other law, in any extension of credit in accordance with ***this subtitle***~~[Subtitle 4 of KRS Chapter 286]~~, the licensee may charge and collect the following:

(1) A fee, or premium for insurance, in lieu of perfecting a security interest to the extent that the fee or premium does not exceed the fee payable to public officials for perfecting the security interest;

(2) A bad check charge of twenty-five dollars ($25), or the amount passed on from other financial institutions, whichever is greater, for any check, draft, negotiable order of withdrawal, or like instrument returned or dishonored for any reason by a depository institution, which charge licensee may charge and collect, through regular billing procedures, or otherwise from the borrower;

(3) A reasonable attorney's fee, in connection with the collection of a loan, actually incurred by the licensee and paid to an attorney who is not an employee of the licensee;

(4) A ***loan processing fee of five percent (5%) of the original*** ~~[charge for credit investigations of one dollar and fifty cents ($1.50) for each fifty dollars ($50) or fraction thereof of the]~~ principal amount of the loan. This charge shall be ***limited to a maximum of one hundred fifty dollars ($150)*** ~~[permitted only on the first two thousand dollars ($2,000) of the principal amount of the loan]~~. ***Any charge collected up to and including fifty dollars ($50) shall be nonrefundable. In the event of prepayment, any loan processing fee above fifty dollars ($50) shall be subject to refund in the same manner as other charges pursuant to KRS 286.4-530(6). A loan processing fee may only be charged once on a loan or refinance within any ninety day (90) period*** ~~[No charge shall be collected unless a loan has been made as a result of the investigation]~~;

(5) An alternative to the default charge described in KRS 286.4-530(4), not to exceed five percent (5%) of each scheduled installment, or fifteen dollars ($15), whichever is greater. Only one (1) charge may be collected for each scheduled installment; and

(6) Costs or other expenses authorized for a secured party in accordance with KRS 355.9-207 and 355.9-607.

➔Section 11. KRS 286.4-580 is amended to read as follows:

(1) No licensee shall take any confession of judgment or any power of attorney running to ***the licensee*** ~~[himself]~~ or to any third person to confess judgment or to appear for the borrower in a judicial proceeding; nor take any note or promise to pay that does not disclose the date and amount of the loan obligation, a schedule or description of the payments to be made thereon, and the rate or aggregate amount of the agreed charges; nor take any instrument ***that is incomplete at the time*** ~~[in which blanks are left to be filled in after]~~ the loan is made.

(2) No licensee shall enter into any contract of loan under this subtitle ***unless:***

(a) ~~[under which]~~The borrower agrees to make any scheduled repayment of principal ***within:***

1. ~~[more than]~~Sixty (60) months and fifteen (15) days from the date of making ***the*** ~~[such]~~ contract if the principal amount of the loan exclusive of interest and charges is three thousand dollars ($3,000) or less***;*** ~~[,]~~ or

2. One hundred and twenty (120) months ***from the date of making the contract*** if the principal amount of the loan exclusive of interest and charges exceeds three thousand dollars ($3,000)***;*** ~~[,]~~ and

(b) ***The*** ~~[every such]~~ contract ***provides*** ~~[shall provide]~~ for repayment of the amount lent in substantially equal installments at approximately equal periodic intervals of time***,*** ~~[;]~~ ***except*** ~~[provided, however,]~~ that when appropriate for the purpose of facilitating payment in accordance with the seasonable nature of obligor's main source of income, payments may be deferred or omitted, if all other payments are increased in ***a*** ~~[such]~~ manner that ***the*** ~~[such]~~ other payments are substantially equal in amount and sufficient in the aggregate to retire the loan in the period of months as ~~[hereinabove]~~ provided ***in this subsection***.

(3) No licensee shall take any mortgage or other lien instrument upon real estate as security for any loan under this subtitle in which the principal is three thousand dollars ($3,000) or less, unless ***the*** ~~[such]~~ lien is subject to a prior mortgage.

➔Section 12. KRS 286.4-600 is amended to read as follows:

(1) (a) ***To enable the commissioner to determine whether the licensee is complying with the provisions of this subtitle, and with the administrative regulations promulgated under it,*** each licensee shall keep and use in his or her business ***books, accounts, records, or card systems in accordance with sound accounting principles and practices.***

(b) ***Unless applicable state or federal law requires a longer retention period, the licensee shall, after making the final entry in them, preserve any books, accounts, records, or card systems*** ~~[and shall preserve for at least two (2) years after making the final entry therein, such books, accounts, records, or card systems]~~***:***

1. ***For at least two (2) years; or***

2. ~~[in accordance with sound accounting principles and practices to enable the commissioner to determine whether the licensee is complying with the provisions of this subtitle, and with the~~

~~regulations [made pursuant thereto], and ~~For at least three (3) years on loans secured by residential property.

(2) (a) Any licensee that intends to cease operation of any office or offices licensed under this subtitle shall:

1. Give the commissioner at least thirty (30) days' prior written notice of the cessation of operations, along with a plan for ceasing operations that is sufficient to safeguard the interest of the public; and

2. Designate a custodian of records prior to the cessation of operations, who shall:

a. Agree in writing to serve in that capacity and to comply with the requirements of this section; and

b. Notify the commissioner of:

i. The designation of a custodian, including but not limited to the custodian's name, physical address, electronic mail address, and telephone number; and

ii. The physical location where the records required to be kept under this subtitle will be preserved.

(b) This subsection shall not apply to changes of location authorized under Section 5 of this Act.

(3) (a) Except as provided in paragraph (b) of this subsection, all records referenced in this section shall be made accessible to the commissioner or the commissioner's designated representative upon demand.

(b) Records held by a designated custodian under subsection (2) of this section shall be made accessible upon five (5) business days' written notice.

(4) If good cause is demonstrated, the commissioner may approve a written request for the destruction of records required to be preserved under this subtitle prior to the minimum retention period required under this section.

(5) It shall be unlawful for any person to knowingly withhold, abstract, alter, remove, mutilate, destroy, or secrete any books, records, or other information required to be preserved under this subtitle for the purpose of obstructing a subpoena issued, or investigation or examination conducted, by the commissioner.

➔Section 13. KRS 286.4-610 is amended to read as follows:

(1) The provisions of this subtitle shall be enforced by the commissioner, who may~~[, after notice to licensees and a hearing,]~~ promulgate ***administrative*** regulations ***in accordance with KRS Chapter 13A*** ~~[, referenced to the section or sections which set forth the legislative standards they interpret or apply,]~~ for the proper conduct of the business licensed under this subtitle. All regulations of general application shall state the date of promulgation and the effective date. A copy of every~~[such]~~ regulation shall be sent to all licensees before the effective date thereof and a copy shall be kept in an indexed permanent book in the office of the commissioner as a public record.

(2) ***(a)*** The commissioner shall ***examine*** ~~[make an annual examination of]~~ the affairs, business, office, and records of every licensee ***at least once during every twenty-four (24) month period, but not more frequently than once during every twelve (12) month period*** ~~[, and such further examinations or investigations as the commissioner deems necessary for the purpose of discovering violations of this subtitle or of securing information necessary for its proper enforcement]~~. Every licensee shall pay a ***reasonable*** fee sufficient to cover the cost of each ***routine*** examination based upon fair compensation for time and actual expenses.

(b) The commissioner may also conduct investigations of licensees or persons within or outside of the state as the commissioner deems necessary to discover violations of this subtitle or to secure information necessary for its proper enforcement.

(c) ~~[(3)]~~ For the purpose of making~~[such]~~ examinations or investigations ***under this section,*** the commissioner and his or her representatives***:***

1. May~~[require the attendance of and]~~***:***

a. Compel the attendance of any person or obtain any documents by subpoenas;

b. Administer oaths and affirmations; and

c. Examine under oath ***or affirmation*** all persons whose testimony he or she may require, relative to the loans or business of ***the*** ~~[any such]~~ licensee~~[,]~~***;*** and

2. Shall have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used in connection with any business conducted under any license issued in accordance with this subtitle.

(3) (a) The commissioner may investigate any person who is or appears to be engaging in the business regulated by this subtitle without first securing a license.

(b) For the purpose of investigations of unlicensed persons, the commissioner or his or her representative may:

1. Compel the attendance of any person or obtain any documents by subpoenas;

2. Administer oaths and affirmations; and

3. Examine under oath or affirmation all persons whose testimony he or she may require, relative to the loans or business of the person.

(4) If any person fails to comply with a subpoena issued by the commissioner under this section, the commissioner may petition the Franklin Circuit Court or any court of competent jurisdiction for enforcement of the subpoena.

(5) In order to carry out the purposes of this subtitle, the commissioner may:

(a) Retain examiners, auditors, investigators, attorneys, accountants, or other professionals and specialists to conduct or assist in the conduct of any examination, investigation, or enforcement action; and

(b) Use, hire, contract, or employ public or private analytical systems, methods, or software.

(6) The authority of this section shall remain in effect whether a person acts or claims to act under any licensing law of this subtitle or acts or claims to act without such authority.

➔SECTION 14. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "registry" means the State Regulatory Registry, LLC, or its successor organization.

(2) When an application, report, or approval request is required under this subtitle to be filed with the commissioner, the commissioner may require, by administrative regulation or order, that the filing, including any applicable fees and any supporting documentation, be submitted to:

(a) The State Regulatory Registry, LLC, or its successor organization;

(b) The registry's parent, affiliate, or operating subsidiary; or

(c) Other agencies or authorities as part of a nationwide licensing system, which may act as an agent for receiving, requesting, and distributing information to and from any source directed by the commissioner.

(3) The commissioner may report violations of this subtitle, enforcement actions, and other relevant information to the registry, notwithstanding any provision of this subtitle to the contrary.

(4) The commissioner may use the registry as an agent for requesting information from and distributing information to the United States Department of Justice or other governmental agencies.

➔SECTION 15. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

Every person licensed under this subtitle shall maintain an agent in this Commonwealth for service of process. The name, physical address, telephone number, and electronic mail address of the agent shall be filed with the application for licensure. The commissioner shall be notified in writing by the licensee at least five (5) days prior to any change in the status of an agent.

➔SECTION 16. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "change of control" means any of the following:

(a) A transfer of ownership interest that results in giving a person the power to direct the management or policies of a licensee;

(b) For publicly traded licensees, a transfer of at least ten percent (10%) of the outstanding voting stock;

(c) For privately held licensees, a transfer of at least twenty-five percent (25%) of the outstanding voting stock; or

(d) The acquisition of an existing licensed location or locations by a licensee.

(2) (a) Except as provided in paragraph (b) of this subsection, a change of control of a licensee or an existing licensed location shall be approved in writing by the commissioner prior to the change.

(b) For the following changes of control, a licensee shall file an application with the commissioner within fifteen (15) days after learning of the change of control:

1. A change of control that results when a person acquires control of a licensee by devise or descent;

2. A change of control that results when a person acquires authority to act:

a. As a personal representative, custodian, guardian, conservator, or trustee;

b. As an officer appointed by a court of competent jurisdiction; or

c. By operation of law;

3. A change of control that results from the public offering of securities; and

4. A change of control that has been exempted by regulation or order of the commissioner, if the commissioner makes a finding that it is in the public interest to do so.

(3) The licensee shall make an application to the commissioner for approval of a change of control on a form prescribed by the commissioner.

(4) (a) For changes of control resulting in an existing licensee obtaining control of an existing licensed location or locations, the application fee shall be one hundred dollars ($100) per location, except that the total fee for a single application shall not exceed one thousand dollars ($1,000) regardless of the number of locations acquired.

(b) For all other changes of control, the application fee shall be the fees set forth in Section 3 of this Act.

(5) The commissioner shall approve an application for a change of control if the commissioner determines that the requirements of this subtitle for obtaining a license will be satisfied after the change of control.

(6) (a) Before filing an application for approval of a change of control, a licensee may submit a written request for a determination from the commissioner as to whether a proposed transaction constitutes a change of control.

(b) If the commissioner determines that a proposed transaction would not constitute a change of control, then the commissioner shall respond in writing to that effect, and the licensee shall not be subject to the requirements of this section.

(c) In the event the commissioner does not make a determination as to whether a proposed transaction would constitute a change of control within sixty (60) days from the date of the request, then no application for a change of control shall be required.

➔SECTION 17. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

In addition to the requirements contained in this subtitle, every person or licensee shall comply with all applicable federal and state laws relating to financial services. However, the regulatory penalties utilized to address violations of this section shall be limited to those authorized in this subtitle.

➔SECTION 18. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) The following shall be considered confidential by law and privileged, and shall not be subject to disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884:

(a) Reports of examination, and correspondence that relates to a report of examination, of a licensee;

(b) Investigations, and records that relate to an investigation, conducted under this subtitle;

(c) Annual reports filed under KRS 286.4-590; and

(d) Any confidential and privileged documents, materials, reports, or information received by the commissioner pursuant to subsection (5)(c) of this section.

(2) Confidential and privileged documents shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any civil action, unless the commissioner determines or, after notice to the commissioner and a hearing, a court of competent jurisdiction determines that the commissioner would not be prejudiced.

(3) (a) Subject to paragraph (b) of this subsection, all other documents, materials, reports, or other information that are provided to or filed with the commissioner under this subtitle shall be open to public inspection.

(b) Notwithstanding paragraph (a) of this subsection, the commissioner may, as authorized by the provisions of KRS Chapter 61, classify as confidential or withhold from public inspection for a period of time, as he or she considers necessary, any information which in his or her judgment, the public welfare or the welfare of any licensee or its customers requires to be withheld.

(4) Neither the commissioner nor any person who receives documents, materials, reports, or other information while acting under the authority of the commissioner shall be required to testify in any civil action concerning any confidential documents, materials, reports, or information.

(5) In order to assist in the performance of the commissioner's duties, the commissioner may:

(a) Use, disclose, or make public the confidential and privileged documents or information referenced in subsection (1) of this section in furtherance of any regulatory or legal action brought as part of the commissioner's official duties;

(b) Share the confidential and privileged documents referenced in subsection (1) of this section with other state and federal regulatory agencies, or with local, state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidential and privileged status of the documents in accordance with any sharing or use agreements referenced in paragraph (d) of this subsection;

(c) Receive documents, materials, reports, or other information, including otherwise confidential and privileged documents, materials, reports, or information, from other state, federal, and international regulatory agencies, the related associations, affiliates, or subsidiaries, and from local, state, federal, and international law enforcement authorities, except that the commissioner shall maintain as confidential and privileged any documents, materials, reports, or information received with notice or the understanding that they are confidential and privileged under the laws of the jurisdiction that is the source of the documents, materials, reports, or information; and

(d) Enter into agreements governing the sharing and use of confidential documents and information when the sharing or use is serving a legitimate governmental need or is necessary in the performance of a legitimate governmental function, including the furtherance of any regulatory or legal action brought as part of the recipient's official duties.

(6) No waiver of any applicable privilege or claim of confidentiality in documents, materials, reports, or information shall occur as a result of the disclosures authorized under this section.

➔SECTION 19. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may enter an emergency order suspending, conditioning, limiting, or restricting a license issued under this subtitle without notice or hearing if, after a thorough investigation and written findings, it appears upon grounds satisfactory to the commissioner that the licensee has engaged or is engaging in unsafe, unsound, or illegal practices that pose an imminent threat to the public interest.

(2) The commissioner may enter an emergency cease-and-desist order against an unlicensed person if, after a thorough investigation, it appears upon grounds satisfactory to the commissioner that the unlicensed person has engaged or is engaging in unsafe or unsound practices, or actions contrary to this subtitle, that pose an imminent threat to the public interest.

(3) One (1) or more of the following circumstances shall be considered sufficient grounds for an emergency order under this section if it appears on grounds satisfactory to the commissioner that:

(a) The licensee has willfully failed to comply with more than one (1) of the requirements of this subtitle;

(b) The licensee is in such financial condition that it cannot continue in business with safety to its customers;

(c) The licensee, or a person in control of the licensee, has been found guilty of any act involving fraud, deception, theft, or breach of trust, or is the subject of an active administrative cease-and-desist order or similar order, or of a permanent or temporary injunction currently in effect entered by any court or agency of competent jurisdiction;

(d) The licensee has made a misrepresentation of material fact to, or concealed an essential or material fact from, a person in the course of doing business, or has engaged in a course of business that has worked or tended to work a fraud or deceit upon a person or would so operate;

(e) The licensee has refused to permit a lawful examination or investigation, or has refused or failed, within a reasonable time, to furnish any information or make any report that may have been requested or required by the commissioner in connection with a lawful investigation or examination; or

(f) The licensee has had any license, registration, or claim of exemption related to the financial services industry denied, suspended, or revoked under the laws of this state, or has surrendered or terminated any license, registration, or claim of exemption issued by this state under threat of administrative action.

(4) An emergency order issued under this section, compliant with KRS 13B.125, becomes effective when served by the commissioner. The emergency order shall be delivered by personal service or certified mail to the last known address of every affected party.

(5) A person aggrieved by an emergency order issued by the commissioner under this section may request an emergency hearing. The request for hearing shall be filed with the commissioner within twenty (20) days of service of the emergency order.

(6) Upon receipt of a timely written request for an emergency hearing, an emergency hearing shall be conducted as set forth in KRS 13B.125.

(7) An emergency order issued under this section shall remain in effect until it is stayed, withdrawn, or superseded by an order of the commissioner or until it is terminated by a court order.

➔SECTION 20. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

Unless a remedy is otherwise specifically provided in this subtitle, any licensee or person aggrieved by a final decision of the commissioner issued pursuant to this subtitle may, within twenty (20) days of service of notice of the decision, request an administrative hearing which shall be conducted in accordance with KRS Chapter 13B.

➔SECTION 21. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) (a) For any repetitive violation of this subtitle or an administrative regulation promulgated under this subtitle, or any willful violation of an order of the commissioner entered under this subtitle, the commissioner may levy a civil penalty against any licensee.

(b) The civil penalty shall not be less than two hundred fifty dollars ($250) or more than two thousand five hundred dollars ($2,500) per violation, plus the state's costs and expenses for the examination and prosecution of the matter, including reasonable attorney's fees and court costs.

(2) (a) For an occurrence of consumer harm by any licensee resulting from any violation of this subtitle, administrative regulation promulgated under this subtitle, or order of the commissioner entered under this subtitle, the commissioner may:

1. Order any remedy authorized in subsection (4) of this section; and

2. Levy a civil penalty against the licensee if the total amount of consumer harm exceeds one thousand dollars ($1,000).

(b) The civil penalty shall be:

1. The lesser of:

a. One thousand dollars ($1,000) per consumer harmed; or

b. Ten percent (10%) of the total cumulative amount of ordered rescission, restitution, refund, disgorgement, or the recovery of expenses; and

2. The state's costs and expenses for the examination and prosecution of the matter, including reasonable attorney's fees and court costs.

(3) (a) The commissioner shall levy a civil penalty against any unlicensed person who violates any provision of this subtitle, administrative regulation promulgated under this subtitle, or order of the commissioner entered under this subtitle.

(b) The civil penalty shall not be less than two thousand five hundred dollars ($2,500) or more than seven thousand five hundred dollars ($7,500) per violation, plus the state's costs and expenses for the examination, investigation, and prosecution of the matter, including reasonable attorney's fees and court costs.

(4) The commissioner may order rescission, restitution, refund, disgorgement, recovery of expenses, and direct such other affirmative action as the commissioner deems necessary against any licensee or person who violates any order issued by the commissioner or any provision of, or administrative regulation promulgated under, this subtitle. The commissioner shall have jurisdiction to institute an action in Franklin Circuit Court or any court of competent jurisdiction for the enforcement of these orders.

(5) The commissioner may notify the Kentucky Department of Revenue, which may institute an action in the name of the Commonwealth of Kentucky in Franklin Circuit Court, or any court of competent jurisdiction, for the recovery of any civil penalty, fine, cost, or fee assessed or levied under this subtitle.

➔Section 22. The following KRS section is repealed:

286.4-630 Review of commissioner's rulings.

Signed by Governor March 26, 2019.

CHAPTER 121

(HB 282)

AN ACT relating to airports.

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

➔Section 1. KRS 183.090 is amended to read as follows:

(1) The cabinet shall cause all ***general aviation*** airport facilities in the state to be inspected to determine the safety and adequacy of such facilities. No person shall operate any aircraft from ***a general aviation***~~[an]~~ airport declared unfit by the cabinet.

(2) In determining whether it shall issue a certificate of approval~~[or license]~~ for the use or operation of ***a general aviation***~~[any]~~ airport, the cabinet shall take into consideration its location, size, layout, safety of operations, the relationship of the airport to a comprehensive plan for statewide and nationwide development, whether the adjoining area is free from obstructions based on a proper glide ratio, the nature of the terrain, the nature of the uses to which the airport will be put, and the possibilities for future development.

(3) The cabinet is empowered to temporarily or permanently revoke any certificate of approval~~[or license]~~ issued by it when it shall determine that ***a general aviation***~~[an]~~ airport ~~[or other navigation facility]~~is not being maintained or used in accordance with the provisions of this chapter and the ***administrative***~~[rules and]~~ regulations promulgated ***in accordance with it***~~[pursuant thereto]~~.

➔Section 2. KRS 183.861 is amended to read as follows:

(1) There is hereby created and established within the cabinet, a commission to be known as the "Kentucky Airport Zoning Commission" which, notwithstanding the provisions of KRS Chapters 100 and 147, shall be empowered to issue orders, rules, and regulations pertaining to use of land within and around the facilities identified in subsection (2) of this section as will promote the public interest and protect and encourage the proper use of the airports and their facilities.

(2) The commission shall have jurisdiction over land use issues around the following facilities ***in the Commonwealth***:

(a) All military airports~~[in the Commonwealth]~~;

(b) All public-use ***facilities of the following types:***

1. Airports***;***~~[,]~~

2. Heliports***;***~~[,]~~ and

3. ***Seaplane***~~[seaplanes]~~ bases~~[in the Commonwealth]~~; and

(c) All ~~[state-licensed,]~~ private-use airports which have a paved runway in excess of two thousand nine hundred (2,900) feet.

➔Section 3. KRS 183.011 is amended to read as follows:

(1) "Aeronautics" means the science and art of flight and includes but is not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants, and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport within this state.

(4)~~["Air navigation facility" means any facility other than one owned or controlled by the United States, used in, available for use in, or designed for use in, aid of air navigation, including airports, rights, interests, or easements in the navigable air space, and any structures, mechanisms, lights, beacons, markers, communicating systems, or other instruments or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.~~

~~(5)]~~ "Airport" means any area, of land or water, which is designed for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport building or other airport facilities, and all appurtenant rights-of-way, whether theretofore or hereinafter established.

(5)~~[(6)]~~ "Airport board," "airboard," or "board" means a board established as provided in this chapter and any airport board or airboard created pursuant to the provisions of KRS Chapter 183 as it existed prior to the enactment of 1960 Ky. Acts ch. 179 shall be deemed to have been established pursuant to this chapter with all of the powers, functions, and duties as herein prescribed.

(6)~~[(7)]~~ "Airport facilities" includes land, buildings, equipment, runways, and other improvements and appurtenances necessary for the establishment and maintenance of airports.

(7)~~[(8)]~~ "Airport hazard" means any structure, object, or natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to such landing or taking off.

(8)~~[(9)]~~ "Certificate" means a certificate issued by the cabinet.

(9)~~[(10)]~~ "Civil aircraft" means any aircraft other than a public aircraft.

(10)~~[(11)]~~ "Charter operator" means all persons who transport or seek to transport persons or property in intrastate commerce for hire on unscheduled service and not between fixed points.

(11)~~[(12)]~~ "Commercial airport" means an airport certified by the Federal Aviation Administration in accordance with 14 C.F.R. ***pt.***~~[Part]~~ 139.

(12) ~~[(13)]~~ "Common carrier" shall include all carriers for hire or compensation by air who operate, or seek to operate, over fixed routes or between fixed termini within the Commonwealth of Kentucky.

(13) ~~[(14)]~~ "Commuter air carrier" means a common carrier of persons or property in intrastate commerce for hire or compensation by air, operating under federal aviation regulation (FAR) Part 135 or other appropriate parts or regulations and who operates or seeks to operate on regular schedules with multi-engine aircraft between two (2) or more fixed airport termini or over fixed routes only within the Commonwealth of Kentucky and publishes flight schedules which specify the times, days of week, and places between which such flights are performed.

(14) ~~[(15)]~~ "Development" and "airport development" mean:

(a) Any work involved in planning, designing, constructing, improving, or repairing a public airport or portion thereof, including the construction, alteration, and repair of airport buildings and the removal, lowering, relocation, and marking and lighting of airport hazards; and

(b) Any acquisition of land, or any interest therein, or of any easement through or other interest in air space which is necessary to permit any required work or to remove, mitigate, prevent, or limit the establishment of airport hazards and expenses incident to the carrying out of the provisions of this chapter.

(15) ~~[(16)]~~ ***"General aviation airport" means any public-use airport that:***

(a) Does not have scheduled passenger service; or

(b) Is not inspected and certified by the Federal Aviation Administration (FAA) for commercial or scheduled air service in accordance with 14 C.F.R. pt. 139.

(16) "Navigable air space" means air space above the minimum altitudes of flight prescribed by the regulations of the Federal Aviation Administration or cabinet consistent therewith, and includes the air space necessary for normal landing or take off of aircraft.

(17) "Operate," as pertains to an unmanned aircraft, means the actions taken by an operator of an unmanned aircraft. "Operate" refers only to the actions of an operator on the ground and is not intended to regulate an unmanned aircraft flying in navigable airspace.

(18) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the air space over this state, or upon any airport within this state. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control as owner, lessee, or otherwise of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

(19) "Operator" means a person operating or flying an unmanned aircraft.

(20) "Overhead line" means any cable, pipeline, wire, or similar substance of any kind or description.

(21) "Permit" means a permit issued by the cabinet.

(22) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of the state, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(23) "Public airport" means any airport which is used or to be used for public purposes under the control of a public agency, the landing area of which is publicly owned.

(24) "Public use airport" means any airport in the state airport plan open for use by the general public, not including a private airport used primarily for the benefit of the owner.

(25) "State airport plan" means the plan of the cabinet for the development of public and certain private airports for the benefit of the people of this state.

(26) "State airway" means a route in the navigable air space over the lands or waters of this state, designated by the cabinet as a route suitable for air navigation.

(27) "Structure" means any object constructed or installed by man, including but not limited to buildings, towers, smokestacks, and overhead transmission lines.

(28) "Tree" includes objects of natural growth.

(29) "Unmanned aircraft" means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

(30) "Unmanned aircraft facility map" means a map that may be developed by a commercial airport to display the airport facility's airspace overlaid with latitude and longitude rectangular gridlines, or any other commercially available system, that reflects the areas where it is unsafe to operate an unmanned aircraft without authorization by the commercial airport operator on property owned by a commercial airport and in specific areas consistent with obstructions to navigation under 14 C.F.R. ***pt.***~~[Part]~~ 77.

Signed by Governor March 26, 2019.

CHAPTER 122

(SB 214)

AN ACT relating to legislative redistricting challenges.

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

➔Section 1. KRS 5.005 is amended to read as follows:

(1) An action challenging the constitutionality of any legislative district created by this chapter shall be brought ***before a Circuit Court panel of three (3) judges, as convened pursuant to this section***~~[in Franklin Circuit Court]~~, which shall have exclusive ***jurisdiction***~~[venue]~~ in all matters relating to redistricting.

(2) The Secretary of State shall be named as a defendant in any action challenging the constitutionality of any legislative district created by this chapter.

(3) The Legislative Research Commission may intervene as a matter of right in any action challenging the constitutionality of any legislative district created by this chapter.

(4) (a) Petitions to challenge the constitutionality of any legislative district created by this chapter may be filed with the Circuit Court clerk in the judicial circuit where the petitioner resides.

(b) The circuit clerk shall at once certify the challenge to the Chief Justice of the Kentucky Supreme Court. Within twenty (20) days of the certification, the Chief Justice shall randomly select three (3) current or retired Circuit Judges to convene as a panel. No judge serving on the panel shall be from the same Supreme Court district as any other judge serving on the panel.

(c) Any judge selected for the panel shall have all the powers and responsibilities of a regular judge of the court. In addition, one (1) of the randomly selected judges shall be named by the Chief Justice as the chief judge for the panel.

(d) 1. The chief judge may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted. The order shall remain in force only until the full panel hears and determines any petition for a preliminary injunction.

2. Any action of a single judge pursuant to this section may be reviewed by the full panel at any time before a final judgment is issued in the challenge for which the panel was convened.

(e) 1. The challenge shall be heard and any orders shall be entered in the judicial circuit in which the petition was filed;

2. If subsequent challenges to the same legislative redistricting plan are filed in the same or any other Circuit Court while the initial challenge is pending, the challenges shall be consolidated and tried together.

(f) The panel shall decide the challenge by concurring vote of a majority of its judges, and the decision shall be subject to the same rights of appeal as in other civil actions.

(g) A retired justice or judge serving on a panel convened under this section shall be compensated as provided by KRS 21A.110.

Signed by Governor March 26, 2019.

CHAPTER 123

(HB 208)

AN ACT relating to the Justice and Public Safety Cabinet.

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

➔Section 1. KRS 15A.197 is amended to read as follows:

The Justice and Public Safety Cabinet and its agencies may provide state personnel, state property, and~~[other]~~ state resources to Trooper Island Incorporated**,**~~[and]~~ the Kentucky State Police Foundation***, and the Kentucky Law Enforcement Memorial Foundation***.

Signed by Governor March 26, 2019.

CHAPTER 124

(SB 208)

AN ACT relating to athlete agents.

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

➔Section 1. KRS 164.6925 is amended to read as follows:

(1) ***Except as otherwise provided in subsection (3) of this section,*** an athlete agent, with the intent to influence a student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the athlete agent:

(a) Give any materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(2) An athlete agent shall not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

(a) Initiate contact, directly or indirectly, with a student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete, to recruit or solicit the student-athlete, parent, or guardian to enter an agency contract unless registered under KRS 164.6901 to 164.6935;

(b) Fail to create or retain or permit inspection of the records required to be retained by KRS 164.6923;

(c) Fail to register when required by KRS 164.6907;

(d) Provide materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate an agency contract; or

(f) Fail to notify a student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete, before the student-athlete, parent, or guardian signs or otherwise authenticates an agency

contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

(3) An athlete agent registered under KRS 164.6901 to 164.6935 who is certified as an athlete agent in a particular sport by a national association that promotes or regulates intercollegiate athletics and establishes eligibility standards for participation by a student athlete in the sport may pay expenses incurred before the signing of an agency contract by a student athlete, a family member of the student athlete, and an individual who is a member of a class of individuals authorized to receive payment for the expenses by the national association that certified the agent if the expenses are:

(a) For the benefit of the athlete who is a member of a class of athletes authorized to receive the benefit by the national association that certified the agent;

(b) Of a type authorized to be paid by a certified agent by the national association that certified the agent; and

(c) For a purpose authorized by the national association that certified the agent.

Signed by Governor March 26, 2019.

CHAPTER 125

(HB 204)

AN ACT relating to financial administration.

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

➔Section 1. KRS 41.410 is amended to read as follows:

(1) The Commonwealth Council on Developmental Disabilities is created within the Department of the Treasury.

(2) The Commonwealth Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities ***Assistance and Bill of Rights*** Act of ***2000***~~[1984]~~ and any subsequent amendment to that act.

(3) The members of the Commonwealth Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.

(a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:

1. Office of Vocational Rehabilitation;
2. Office for the Blind;
3. Division of Exceptional Children, within the Department of Education;
4. Department for Aging and Independent Living;
5. Department for Medicaid Services;
6. Department of Public Advocacy, Protection and Advocacy Division;
7. University-affiliated programs;
8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;

9. Department for Behavioral Health, Developmental and Intellectual Disabilities; and

10. Department for Public Health, Division of Maternal and Child Health.

(b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities ***Assistance and Bill of Rights*** Act of ***2000***~~[1984]~~ as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.

(c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.

(d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The Department of the Treasury shall provide personnel adequate to ensure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.

(4) The Commonwealth Council on Developmental Disabilities shall:

(a) Develop and implement the state plan as required by Part B of the Developmental Disabilities ***Assistance and Bill of Rights*** Act of ***2000***~~[1984]~~, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;

(b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;

(c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;

(d) Submit to the Department of the Treasury and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the Department of the Treasury finds necessary to verify the reports;

(e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;

(f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and

(g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities ***Assistance and Bill of Rights*** Act of ***2000***~~[1984]~~, as amended, to fund all programs, projects, and activities under that Act.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "STABLE Kentucky account" has the same definition as set forth in KRS 164A.260.

(2) The Department of the Treasury shall be responsible for administering and promoting STABLE Kentucky accounts.

(3) In order to ensure that the program is administered in a cost-effective manner, the Department of the Treasury may enter into any cooperative agreements, contracts, or similar instruments with:

(a) Other states which administer programs created under 26 U.S.C. sec. 529A;

(b) Other agencies or departments of the Commonwealth; or

(c) A nonprofit organization tasked with providing services to individuals who are eligible for a STABLE Kentucky account.

➔Section 3. KRS 393A.020 is amended to read as follows:

This chapter shall not apply to:

(1) Property held, due, and owing in a foreign country if the transaction out of which the property arose was a foreign transaction;

(2) Money, funds, or any other intangible property held by or owing:

(a) To a nonprofit exempt under Section 501(c)(3) of the Internal Revenue Code;~~[or]~~

(b) For any minerals or other raw materials capable of being used for fuel in the course of manufacturing, processing, production, or mining; ***or***

(c) For any mineral proceeds;

(3) Wages or salaries of fifty dollars ($50) or less that are not claimed by an employee within one (1) year of the date the wages or salaries are earned, unless the amounts are held on a payroll card;

(4) Moneys in inmate accounts and prisoner canteen accounts held by jailer under KRS 441.137; or

(5) Funds held in a lawyer IOLTA trust account under Supreme Court Rule 3.830.

➔Section 4. KRS 393A.330 is amended to read as follows:

(1) Except as otherwise provided in this section, on filing a report under KRS 393A.220, the holder shall pay or deliver to the administrator the property described in the report.

(2) If property in a report under KRS 393A.220 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

(3) Tangible property in a safe-deposit box shall not be delivered to the administrator until one hundred twenty (120) days after filing the report under KRS 393A.220.

(4) If property reported to the administrator under KRS 393A.220 is a security, the administrator may:

(a) Make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent, or the securities intermediary to transfer the security; or

(b) Dispose of the security under KRS 393A.410.

(5) If the holder of property reported to the administrator under KRS 393A.220 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under KRS 355.8-405. An indemnity bond shall not be required.

(6) The administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the administrator by a holder.

(7) An issuer, holder, and transfer agent or other person acting under this section under instructions of and on behalf of the issuer or holder shall not be liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered to the administrator.

(8) A holder shall not be required to deliver to the administrator a security identified by the holder as a non-freely transferable security. If the administrator or holder determines that a security is no longer a non-freely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this chapter. The holder shall make a determination annually whether a security identified in a report filed under KRS 393A.220 as a non-freely transferable security is no longer a non-freely transferable security.

(9) (a) If property reported to the administrator is virtual currency, the holder shall liquidate the virtual currency and remit the proceeds to the administrator.

(b) The liquidation shall occur anytime within ninety (90) days prior to the filing of the report under KRS 393A.220.

(c) The owner shall not have recourse against the holder or the administrator to recover any gain in value that occurs after the liquidation of the virtual currency under this subsection.

➔Section 5. The following KRS sections are repealed:

41.600 Definitions for KRS 41.600 to 41.625 -- Eligibility requirements.

41.606 Linked deposit investment program -- Purpose -- Reports -- Authority for administrative regulations.

41.610 Participation in program -- Investment agreements -- Required terms and conditions.

41.615 Use of moneys obtained -- Refinancing of prior loans.

41.620 Application for linked deposit loan -- Effect of false statement.

42.510 Fixing rates of interest -- Relationship to Linked Deposit Investment Program.

Signed by Governor March 26, 2019.

CHAPTER 126

(HB 352)

AN ACT relating to motor carriers and making an appropriation.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section shall be in effect until June 30, 2028.

(2) As used in this section and Section 2 of this Act, "extended weight unrefined petroleum products haul road system" consists of all state-maintained highways over which quantities of unrefined petroleum products in excess of fifty thousand (50,000) tons were transported by motor vehicles during the period from January 1, 2022, through December 31, 2022, and annually thereafter.

(3) (a) Except as provided for in paragraph (b) of this subsection, on or before November 1, 2022, and annually thereafter on November 1 of each year, the secretary of the Transportation Cabinet shall, by official order, certify the highways or portions thereof, which meet the criteria in subsection (2) of this section, as the extended weight unrefined petroleum products haul road system.

(b) If, during the year 2022, a quantity of unrefined petroleum products that meets the threshold set out in subsection (2) of this section is transported on any state-maintained highway, the secretary of the Transportation Cabinet shall, within thirty (30) days by official order, certify those highways or portions thereof, as part of the extended weight unrefined petroleum products haul road system.

(4) The total tons of unrefined petroleum products transported by motor vehicles over any public highway shall be determined from the reports required by Section 2 of this Act.

(5) (a) Any vehicle, when registered with a declared gross weight of eighty thousand (80,000) pounds and when transporting unrefined petroleum products over state-maintained highways which are part of the extended weight unrefined petroleum products haul road system, may be operated at weights in excess of the maximum gross weight prescribed in KRS 189.221 and 189.222 and any other maximum weight limitations on state- or county-maintained systems, if it complies with the requirements of this subsection.

(b) Trucks configured using an axle system approved by the Transportation Cabinet in accordance with paragraph (c) of this subsection may operate up to a maximum gross weight of one hundred twenty thousand (120,000) pounds with a gross weight tolerance of five percent (5%).

(c) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to specify approved axle configurations that may be used when operating under this section.

(d) For purposes of this section and KRS 189.230, the dimensional requirements of motor vehicles shall conform to all appropriate federal laws and regulations.

(e) The permit fee for each truck operated under this section shall be two thousand dollars ($2,000) annually. Upon renewal of an annual permit issued under this section, the permit holder shall report to the cabinet the number of trips made and the total miles driven under the permit during the previous year

(f) The payment of the permit fee shall be in addition to any state registration fee, user fee, or other permit fee, including the registration fee as specified in KRS 186.050(3).

(g) Each truck operating under a permit pursuant to this section shall be equipped with global positioning system technology that keeps a record of locations traveled. The travel records of trucks operating under a permit shall be open to inspection by the Transportation Cabinet.

(h) Any driver of a vehicle identified in this section operating under a permit shall, in addition to possessing a valid Class A commercial driver's license, be approved by the Kentucky State Police to operate a vehicle under this section.

(6) All revenues generated pursuant to this section shall be credited to the road fund and shall be appropriated for the uses of that fund.

(7) (a) Nothing in this section shall be construed or administered to jeopardize the receipt of federal funds for highway purposes, and the secretary of transportation shall not act in any manner which jeopardizes federal highway funds or funds to be received by the Commonwealth.

(b) This section shall not be construed to:

1. Authorize any vehicle to operate on a federal interstate highway in excess of those limits prescribed in KRS 189.222; or

2. Prohibit the Department of Highways from providing for the public safety and convenience of the traveling public on the highway, including by limiting travel on roads with bridges having weight restrictions.

(8) As soon as practical after the report is prepared and published pursuant to Section 2 of this Act for any calendar year after 2022, the secretary shall add to or delete from the extended weight unrefined petroleum products haul road system any sections of state-maintained highways based upon the criteria set out in this section. Deletion of a public road or portion of it from the extended weight unrefined petroleum products haul road system shall not affect the eligibility of the roads for highway funds or programs applicable to the extended weight unrefined petroleum products haul road system.

(9) A representative of the Transportation Cabinet shall transmit a report of roads to be included in the extended weight unrefined petroleum products haul road system to the fiscal court of each county in which a road or road segment is eligible for inclusion in the system. The secretary shall take into consideration any concerns expressed by a fiscal court before adding a road to the extended weight unrefined petroleum products haul road system.

(10) The Transportation Cabinet shall inspect all of the routes in the extended weight unrefined petroleum products haul road system annually to determine the extent of degradation of any segments of road or bridges.

(11) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to administer this section.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section shall be in effect until June 30, 2028.

(2) The Transportation Cabinet shall publish a directory, including supporting maps and other documents, designating the extended weight unrefined petroleum products haul road system, which shall include all state-maintained highways and bridges over which quantities of unrefined petroleum products in excess of the amount identified in subsection (2) of Section 1 of this Act have been transported in the immediately

preceding year. The cabinet shall further publish the total county mileage of the extended weight unrefined petroleum products haul road system for that preceding year. Publication of the information in this subsection may be by electronic means.

(3) Beginning January 1, 2022, every person, producer, or processor shipping or transporting unrefined petroleum products over any state-maintained highway or bridge shall file with the Transportation Cabinet information for the purpose of identifying those state-maintained highways comprising the extended weight unrefined petroleum products haul road system and the quantities of unrefined petroleum products transported thereon, in order that the cabinet can accurately calculate total ton-miles within each county.

(4) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the requirements of this section, including publication of the information outlined in subsection (2) of this section and establishment of a reporting system for transporters of unrefined petroleum products.

➔Section 3. KRS 189.2713 is amended to read as follows:

~~[After June 29, 2017, and until June 30, 2020:]~~

(1) As used in this section, "metal commodities" means output products from metal-producing industries that are transported in their most basic and original form from a mill or storage facility to market for processing. "Metal commodities" does not include manufactured parts being transported from a manufacturer or supplier to another customer;

(2) The department shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual and single-trip permits for the operation of motor vehicles transporting metal commodities with a minimum gross weight of eighty thousand and one (80,001) pounds and a maximum gross weight of one hundred twenty thousand (120,000) pounds in divisible or nondivisible loads to or from a facility manufacturing metal commodities in this state or a facility used for storage of metal commodities;

(3) A motor carrier transporting metal commodities in divisible or nondivisible loads to or from a facility manufacturing metal commodities in this state or a facility used for storage of metal commodities, may apply for an annual or single-trip overweight permit pursuant to subsection (2) of this section. A permit issued under this section shall be specific to a single truck and shall be valid twenty-four (24) hours a day;

(4) (a) The cost of an annual permit issued under this section shall be one thousand two hundred fifty dollars ($1,250).

(b) The cost of a single-trip permit issued under this section shall be one hundred dollars ($100);

(5) Permits issued under this section shall contain a Web site hyperlink or any other method to provide the motor carrier with routes that are approved by the department;

(6) Upon renewal of any annual permit issued under this section, the permit holder shall report to the cabinet the number of trips made and the total miles driven under the permit during the previous year; and

(7) Administrative regulations promulgated by the department under this section may require motor carriers to meet specific Federal Motor Carrier Safety Administration (FMCSA) safety ratings and FMCSA safety measurement system scores before issuance of a permit under this section.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

After the effective date of this Act, no new overweight or overdimensional permit, or any new overweight or overdimensional tolerance, for motor carriers shall be granted under this chapter, except that the overweight permit established in Sections 1 and 2 of this Act may be extended until June 30, 2033.

➔Section 5. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (6) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in

which case the person shall be guilty of a Class D felony. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.2713 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.2713, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) ***1. Any person who violates the provisions of Section 1 of this Act while operating on a route designated in Section 2 of this Act shall be fined one hundred dollars ($100).***

2. Any person who operates a vehicle with a permit under Section 1 of this Act in excess of eighty thousand (80,000) pounds while operating on a route not designated in Section 2 of this Act shall be fined one thousand dollars ($1,000)~~[On or after July 1, 2020:~~

~~1. Any person who violates the weight provisions of KRS 189.2714 shall be subject to the penalties outlined in paragraph (a) of this subsection; and~~

~~2. Any person who violates any provision of KRS 189.2714 for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500)]~~.

(e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars ($50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

(25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars ($30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.

(26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.020 and 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

(30) Any person who violates KRS 189.292 or 189.294 shall be fined twenty-five dollars ($25) for the first offense and fifty dollars ($50) for each subsequent offense.

➔Section 6. The following KRS section is repealed:

189.2714 Annual overweight permit for transporting steel products or materials to or from a manufacturing or storage facility -- Administrative regulations. (Effective July 1, 2020)

➔Section 7. Sections 1 and 2 of this Act are repealed June 30, 2028.

Signed by Governor March 26, 2019.

CHAPTER 127

(HB 381)

AN ACT relating to the reemployment of retired police officers by a postsecondary institution.

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

➔SECTION 1. A NEW SECTION OF KRS 164.950 TO 164.980 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Postsecondary institution" means any public institution of postsecondary education who is authorized to establish a police department pursuant to KRS 164.950 to 164.980 who participates in the Kentucky Employees Retirement System; and

(b) "Police officer" has the same meaning as "police officer" in KRS 15.420, as "police officer" in KRS 164.950 to 164.980, and as "officer" in KRS 16.010.

(2) Subject to the limitations of subsection (7) of this section, a postsecondary institution may employ individuals as police officers under this section who have retired from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System.

(3) To be eligible for employment under this section, an individual shall have:

(a) Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.510, retired as a commissioned officer pursuant to KRS Chapter 16, or retired as a police officer from a postsecondary institution;

(b) Retired with at least twenty (20) years of service credit;

(c) Been separated from service for the period required by Section 2 of this Act so that the member's retirement is not voided;

(d) Retired with no administrative charges pending; and

(e) Retired with no preexisting agreement between the individual and the postsecondary institution prior to the individual's retirement for the individual to return to work for the postsecondary institution.

(4) Individuals employed under this section shall:

(a) Serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the employing postsecondary institution;

(b) Receive compensation according to the standard procedures applicable to the employing postsecondary institution; and

(c) Be employed based upon need as determined by the employing postsecondary institution.

(5) Notwithstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287, 61.510 to 61.705, or 78.510 to 78.852 to the contrary:

(a) Individuals employed under this section shall continue to receive all retirement and health insurance benefits to which they were entitled upon retiring in the applicable system administered by Kentucky Retirement Systems;

(b) Individuals employed under this section shall not be eligible to receive health insurance coverage through the employing postsecondary institution;

(c) The postsecondary institution shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by subsection (17) of Section 2 of this Act for individuals employed under this section; and

(d) The postsecondary institution shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under this section.

(6) Individuals employed under this section shall be subject to any legislative due process provisions applicable to police officers of the employing postsecondary institution. A decision not to renew a one (1) year appointment term under this section shall not be considered a disciplinary action or deprivation subject to due process.

(7) The number of retired police officers a postsecondary institution may hire under the provisions of this section shall be limited to five (5) retired police officers or a number equal to twenty-five percent (25%) of the police officers employed by the postsecondary institution in calendar year 2018, whichever is greater.

➔Section 2. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within

sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment or is serving as a volunteer with an employer that participates in the retirement system from which the member retired. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a

second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.

(17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members ~~[who retired prior to January 1, 2019, and]~~who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification,

the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293**,** ~~[and]~~ 95.022***, and Section 1 of this Act*** and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293**,** ~~[and]~~ 95.022***, and Section 1 of this Act*** and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293~~[and]~~ 95.022***, and Section 1 of this Act*** and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293~~[and]~~ 95.022***, and Section 1 of this Act*** and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;

2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and

4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service; and

(f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:

1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or

2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body.

~~[(18) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (17) of this section, the following shall apply to retired members, retirees, or annuitants of the systems or plans administered by the Kentucky Retirement Systems, the Judicial Form Retirement System, and the Teachers' Retirement System, who retire and begin drawing a retirement allowance on or after January 1, 2019, and are reemployed on or after January 1, 2019, by an agency participating in the systems administered by the Kentucky Retirement Systems:~~

~~(a) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed in any position with an agency participating in any of the systems administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a three (3) month period following the member's initial retirement date from the systems, the member's retirement shall be voided and the member shall repay to the system all benefits received, including any health insurance~~

benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that is considered a regular full-time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of KRS 6.525, 21.374, 61.5955, or 61.5956;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member, annuitant, or retiree is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed or elected to a position with an agency participating in the systems administered by the Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date from the system:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. The retired member may continue to draw his or her retirement allowance during the period of reemployment if:

a. The period of reemployment is not considered regular full-time as defined by paragraph (g) of this subsection; or

b. The period of reemployment is considered regular full-time but the member has not returned to reemployment for at least a twelve (12) month period following his or her initial retirement. If the member returns to reemployment in a regular full-time position after a three (3) month but prior to a twelve (12) month period following his or her initial retirement, then the member's retirement allowance shall be suspended until twelve (12) months following his or her initial retirement; and

4. The employer shall pay the employer normal cost contributions as specified by KRS 61.565(1)(b) and 61.702, on all creditable compensation earned by the employee during the period of regular full-time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf for the period of regular full-time reemployment and shall be used to pay down the unfunded liability of the systems;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed in any position with an agency participating in the systems or plans administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a one (1) month period following the member's initial retirement date from the system, the member's retirement shall be voided and the member shall repay to the system or plan all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that qualifies for participation in a position that is considered a regular

full time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of KRS 6.525, 21.374, 61.5955, or 61.5956;

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed with an agency participating in the systems administered by the Kentucky Retirement Systems after a one (1) month period following the member's initial retirement date from the system, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment; and

3. The employer shall pay the employer normal cost contributions as specified by KRS 61.565(1)(b) and 61.702 on all creditable compensation earned by the employee during the period of regular full time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf for the period of regular full time reemployment and shall be used to pay down the unfunded liability of the systems;

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer for which the retired member is performing volunteer services;

2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and

4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty four (24) months following the retired member's most recent retirement date.

~~If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services, and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;~~

~~(f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:~~

~~1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or~~

~~2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body; and~~

~~(g) For purposes of this subsection, "regular full-time" shall mean any position that requires an average of one hundred (100) or more hours per month over a calendar or fiscal year basis, except that in the case of classified school board employees it shall be more than one hundred (100) days of work during the fiscal year. Interim, temporary, or seasonal positions as defined and time limited by KRS 61.510(21) or 78.510(21) shall not be considered regular full-time; and~~

~~(h) Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, an individual who retires and begins drawing a retirement allowance from one (1) or more of the systems or plans administered by the Teachers' Retirement System or the Judicial Form Retirement System on or after January 1, 2019, who is reemployed with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems, shall not be eligible to earn benefits in the Kentucky Employees Retirement System, County Employees Retirement System, or the State Police Retirement System for reemployment that occurs on or after January 1, 2019.~~

Signed by Governor March 26, 2019.

CHAPTER 128

(HB 513)

AN ACT relating to substance use disorder treatment and recovery services and programs.

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

➔Section 1. KRS 12.500 is amended to read as follows:

As used in KRS 12.500 to 12.520, unless the context otherwise requires:

(1) "Government funding" means financial assistance received by nongovernment entities in the form of federal, state, or local government grants, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance. "Government funding" does not include tax credits, deductions, or exemptions.

(2) "Social service program" means a program administered by the federal, state, or local government using government funding to provide social services directed at reducing poverty, improving opportunities for low-income adults or children, self-sufficiency, rehabilitation, or other services directed toward vulnerable citizens. "Social service program" includes but is not limited to:

(a) Adult or child day care;

(b) Adult or child protective services, foster care, or adoption, including programs relating to domestic violence;

(c) Services for adults or children with special needs or disabilities;

(d) Job training and related services, and employment services;

(e) Transportation services;

(f) Food or meal preparation or delivery services relating to soup kitchens or food banks;

(g) ***Substance use disorder***~~[Alcohol and other drug abuse]~~ prevention and treatment;

(h) Health support services;

(i) Literacy and educational services, including adult education services;

(j) Crime prevention services and assistance to the victims and family members of criminal offenders; and

(k) Services for housing assistance as provided under local, state, and federal law.

➔Section 2. KRS 202A.0819 is amended to read as follows:

(1) At a hearing and at all stages of a proceeding for court-ordered assisted outpatient treatment, the respondent shall be:

(a) Represented by counsel;

(b) Accompanied by a peer support specialist or other person in a support relationship, if requested by the respondent; and

(c) Afforded an opportunity to present evidence, call witnesses on his or her behalf, and cross-examine adverse witnesses.

(2) If a respondent does not appear at the hearing, and appropriate attempts to elicit the respondent's appearance have failed, the court may conduct the hearing in the respondent's absence.

(3) A qualified mental health professional who recommends court-ordered assisted outpatient treatment for the respondent shall:

(a) Testify at the hearing, in person or via electronic means;

(b) State the facts and clinical determinations which support the allegation that the respondent meets the criteria stated in KRS 202A.0815; and

(c) Testify in support of the treatment plan provided pursuant to KRS 202A.0817, and for each category of proposed evidence-based treatment, he or she shall state the specific recommendation and the clinical basis for his or her belief that such treatment is essential to the maintenance of the respondent's health or safety.

(4) If after hearing all relevant evidence, the court does not find by clear and convincing evidence that the respondent meets the criteria stated in KRS 202A.0815, the court shall deny the petition and the proceedings against the respondent shall be dismissed.

(5) If after hearing all relevant evidence, the court finds by clear and convincing evidence that the respondent meets the criteria stated in KRS 202A.0815, the court may order the respondent to receive assisted outpatient treatment for a period of time not to exceed three hundred sixty (360) days. The court's order shall incorporate a treatment plan, which shall be limited in scope to the recommendations included in the treatment plan provided by the qualified mental health professional pursuant to KRS 202A.0817.

(6) The court shall report every order for assisted outpatient treatment issued under this section to the ***Department for Behavioral Health, Developmental and Intellectual Disabilities***~~[Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses established pursuant to KRS 210.502]~~.

➔Section 3. KRS 210.365 is amended to read as follows:

(1) As used in this section:

(a) "Crisis intervention team (CIT) training" means a forty (40) hour training curriculum based on the Memphis Police Department Crisis Intervention Team model of best practices for law enforcement intervention with persons who may have a mental illness, substance ***use***~~[abuse]~~ disorder, an intellectual disability, developmental disability, or dual diagnosis that meets the requirements of subsections (2) to (5) of this section and is approved by the Kentucky Law Enforcement Council;

(b) "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities;

(c) "Prisoner" has the same meaning as set out in KRS 441.005; and

(d) "Qualified mental health professional" has the same meaning as set out in KRS 202A.011.

(2) The department shall, in collaboration with the Justice and Public Safety Cabinet, the regional community boards for mental health or individuals with an intellectual disability, and representatives of the Kentucky statewide affiliate of the National Alliance on Mental Illness, coordinate the development of CIT training designed to train law enforcement officers to:

(a) Effectively respond to persons who may have a mental illness, substance ***use***~~[abuse]~~ disorder, intellectual disability, developmental disability, or dual diagnosis;

(b) Reduce injuries to officers and citizens;

(c) Reduce inappropriate incarceration;

(d) Reduce liability; and

(e) Improve risk management practices for law enforcement agencies.

(3) The CIT training shall include but not be limited to:

(a) An introduction to crisis intervention teams;

(b) Identification and recognition of the different types of mental illnesses, substance ***use***~~[abuse]~~ disorders, intellectual disabilities, developmental disabilities, and dual diagnoses;

(c) Interviewing and assessing a person who may have a mental illness, substance ***use***~~[abuse]~~ disorder, intellectual disability, developmental disability, or dual diagnosis;

(d) Identification and common effects of psychotropic medications;

(e) Suicide prevention techniques;

(f) Community resources and options for treatment;

(g) Voluntary and involuntary processes for hospitalization of a person with a mental illness, substance ***use***~~[abuse]~~ disorder, intellectual disability, developmental disability, or dual diagnosis; and

(h) Hostage or other negotiations with a person with a mental illness, intellectual disability, substance ***use***~~[abuse]~~ disorder, developmental disability, or dual diagnosis.

(4) The curriculum shall be presented by a team composed of, at a minimum:

(a) A law enforcement training instructor who has completed a forty (40) hour CIT training course and a CIT training instructor's course which has been approved by the Kentucky Law Enforcement Council, and at least forty (40) hours of direct experience working with a CIT;

(b) A representative from the local community board for mental health or individuals with an intellectual disability serving the region where CIT training is conducted;

(c) A consumer of mental health services; and

(d) A representative of the Kentucky statewide affiliate of the National Alliance on Mental Illness.

(5) (a) The department shall submit the CIT training curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training to the Kentucky Law Enforcement Council no later than July 1, 2007.

(b) The Kentucky Law Enforcement Council shall notify the department of approval or disapproval of the CIT training curriculum and trainers within thirty (30) days of submission of the curriculum and the names of instructors.

(c) The Kentucky Law Enforcement Council may waive instructor requirements for non-law enforcement trainers whose names are submitted by the department.

(d) If the curriculum or trainers are not approved, the department shall have an opportunity to revise and resubmit the curriculum and to submit additional names of instructors if necessary.

(6) If the curriculum is approved, the Kentucky Law Enforcement Council shall:

(a) Notify the Department of Kentucky State Police and all law enforcement agencies employing peace officers certified under KRS 15.380 to 15.404 of the availability of the CIT training; and

(b) Notify all instructors and entities approved for law enforcement training under KRS 15.330 of the availability of the CIT training.

(7) Any law enforcement training entity approved by the Kentucky Law Enforcement Council may use the CIT training model and curriculum in law enforcement in-service training as specified by subsection (1) of this section that is consistent with the Memphis CIT national model for best practices.

(8) No later than one (1) year after June 26, 2007, the department shall submit to the Kentucky Law Enforcement Council a CIT training instructors' curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training instructors' training. Additional instructors may be submitted on a schedule determined by the Kentucky Law Enforcement Council.

(9) All CIT-trained law enforcement officers shall report to his or her agency on forms provided with the CIT curriculum on encounters with persons with mental illness, substance ***use***~~[abuse]~~ disorders, intellectual disabilities, developmental disabilities, and dual diagnoses. The law enforcement agency shall aggregate reports received and submit nonidentifying information to the department on a monthly basis. Except for information pertaining to the number of law enforcement agencies participating in CIT training, the reports to the department shall include the information specified in subsection (10) of this section.

(10) The department shall aggregate all reports from law enforcement agencies under subsection (9) of this section and submit nonidentifying statewide information to the Justice and Public Safety Cabinet, the Criminal Justice Council, the Cabinet for Health and Family Services, and the Interim Joint Committee on Health and Welfare by December 1, 2008, and annually thereafter. The report shall include but not be limited to:

(a) The number of law enforcement officers trained per agency;

(b) Law enforcement responses to persons with mental illness, substance ***use***~~[abuse]~~ disorders, intellectual disabilities, developmental disabilities, and dual diagnoses;

(c) Incidents of harm to the law enforcement officer or to the citizen;

(d) The number of times physical force was required and the type of physical force used; and

(e) The outcome of the encounters that may include but not be limited to incarceration or hospitalization.

(11) To implement the requirements of subsections (2) to (5) and (8) to (10) of this section, the department may use public or private funds as available and may develop a contract with a nonprofit entity that is a Kentucky statewide mental health advocacy organization that has a minimum of five (5) years of experience in implementation of the CIT training program in Kentucky.

(12) The Cabinet for Health and Family Services shall create a telephonic behavioral health jail triage system to screen prisoners for mental health risk issues, including suicide risk. The triage system shall be designed to give the facility receiving and housing the prisoner an assessment of his or her mental health risk, with the assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system. The triage system shall consist of:

(a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, intellectual disabilities, and acquired brain injury risk factors; and

(b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.

(13) In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:

(a) The Department of Corrections;

(b) The Kentucky Jailers Association; ***and***

(c) ~~[The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and~~

~~(d)]~~The regional community services programs for mental health or individuals with an intellectual disability created under KRS 210.370 to 210.460.

(14) The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community services programs for mental health or individuals with an intellectual disability created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.

(15) The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.

(16) The cost of operating the telephonic behavioral health jail triage system shall be borne by the cabinet.

(17) Records generated under this section shall be treated in the same manner and with the same degree of confidentiality as other medical records of the prisoner.

(18) Unless the prisoner is provided with an attorney during the screening and assessment, any statement made by the prisoner in the course of the screening or assessment shall not be admissible in a criminal trial of the prisoner, unless the trial is for a crime committed during the screening and assessment.

(19) The cabinet may, after consultation with those entities set out in subsection (13) of this section, promulgate administrative regulations for the operation of the telephonic behavioral health jail triage system and the establishment of its recommended protocols for prisoner housing, supervision, and care.

➔Section 4. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health and Family Services, each community board for mental health or individuals with an intellectual disability shall:

(1) Review and evaluate services for mental health or individuals with an intellectual disability provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health and Family Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community program for mental health or individuals with an intellectual disability;

(7) Oversee and be responsible for the management of the community program for mental health or individuals with an intellectual disability in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health and Family Services;

(8) Comply with the provisions of KRS 65A.010 to 65A.090; and

(9) Deliver the training recommended by ***the Department for Behavioral Health, Developmental and Intellectual Disabilities for*** ~~[KRS 210.504]~~ local jailers and other officers of the court who may come in contact with persons deemed mentally ill and who are incarcerated or in detention.

➔Section 5. KRS 210.485 is amended to read as follows:

Regional community boards for mental health or individuals with an intellectual disability shall, on at least an annual basis, submit the following lists to the circuit clerks in each board's region:

(1) A list of hospitals and psychiatric facilities in the judicial districts within the board's region which are able and willing to take respondents ordered to undergo seventy-two (72) hours of treatment and observation pursuant to KRS 222.434; and

(2) A list of hospitals and treatment providers in the judicial districts within the board's region who are able and willing to provide treatment for ***substance use disorder*** ~~[alcohol and other drug abuse]~~ ordered pursuant to KRS 222.433.

➔Section 6. KRS 210.506 is amended to read as follows:

(1) The regional community boards for mental health or individuals with an intellectual disability established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning. The councils shall be attached to the community boards for mental health or individuals with an intellectual disability for administrative purposes.

(2) A member of the regional community board for mental health or individuals with an intellectual disability shall serve as chair of the regional planning council.

(3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:

(a) Family members of individuals with mental illness, ***substance use disorder*** ~~[alcohol and other drug abuse disorders]~~, and dual diagnoses;

(b) Consumers of mental health and substance ***use disorder*** ~~[abuse]~~ services;

(c) County officials and business leaders;

(d) Health departments and primary care physicians;

(e) Advocates and community organizations;

(f) Educators and school personnel;

(g) Regional interagency councils established under KRS Chapter 200;

(h) Law enforcement and court personnel;

(i) Public and private organizations, agencies, or facilities that provide services for mental health and substance ***use disorder*** ~~[abuse]~~ in the region that represent inpatient services, outpatient services, residential services, and community-based supportive housing programs;

(j) Individuals who provide mental health and substance ***use disorder*** ~~[abuse]~~ services in the region; and

(k) Public and private hospitals that provide mental health and substance ***use disorder*** ~~[abuse]~~ services.

(4) The regional planning councils may establish bylaws and procedures to assist in the operation of the councils.

➔Section 7. KRS 210.509 is amended to read as follows:

(1) The regional planning councils shall meet as often as necessary to accomplish their purpose.

(2) The regional planning councils shall:

(a) Assess in the region the needs of individuals with mental illness, ***substance use*** ~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses;

(b) 1. Study the regional mental health and substance ***use disorder*** ~~[abuse]~~ treatment delivery system and identify specific barriers in each region to accessing services;

2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system and the adequacy and availability of the mental health and substance ***use disorder*** ~~[abuse]~~ professional workforce in each region; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities;

(c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, ***substance use*** ~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses. The strategies may include:

1. Exploration of the use of community-based treatment programs, including but not limited to community-based hospitalization;

2. Access to and funding for the most effective medications;

3. Promotion of family and consumer support groups statewide;

4. Reduction of instances of criminalization of individuals with mental illness, ***substance use*** ~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses; and

5. Efforts to increase housing options for persons at risk of institutionalization;

(d) Identify funding~~[needs and report to the commission established in KRS 210.502 about the use of any flexible safety net funding if appropriated by the General Assembly]~~;

(e) Evaluate the access of children and youth to mental health and substance ***use disorder***~~[abuse]~~ services and preventive programs within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance ***use disorder***~~[abuse]~~ providers and facilities, physical health care providers and facilities, the faith community, and community agencies;

(f) Collect and evaluate data regarding individuals with mental illness, ***substance use***~~[alcohol and other drug abuse]~~ disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services; and

(g) Make recommendations on each subsection of this section ***in***~~[to the commission established under KRS 210.502 by July 1 of each odd-numbered year. These recommendations may be incorporated into]~~ the regional annual plans required by KRS 210.400.

➔Section 8. KRS 214.185 is amended to read as follows:

(1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, ***or substance use disorder***~~[alcohol or other drug abuse or addiction]~~ and may advise, prescribe for, and treat such minor regarding venereal disease, ***substance use disorder***~~[alcohol and other drug abuse or addiction]~~, contraception, pregnancy, or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.

(2) Any physician may provide outpatient mental health counseling to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.

(3) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage or borne a child may give consent to the furnishing of hospital, medical, dental, or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such married or emancipated minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of marriage or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.

(4) Medical, dental, and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

(5) The consent of a minor who represents that he may give effective consent for the purpose of receiving medical, dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.

(6) The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.

(7) Except as otherwise provided in this section, parents, the Cabinet for Health and Family Services, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

➔Section 9. KRS 222.003 is amended to read as follows:

(1) The programs or activities of the voluntary self-help organizations known as Alcoholics Anonymous, Narcotics Anonymous, Al-Anon, and similar organizations in the area of ***substance use disorder***~~[alcohol and other drug abuse]~~ rehabilitation shall not be restricted or regulated by the provisions of this chapter.

(2) The programs or activities of voluntary community groups and agencies, such as Students Against Drunk Driving, National Federation of Parents, Parent Resource Institute for Drug Education, and similar organizations in the area of ***substance use disorder***~~[alcohol and other drug abuse]~~ prevention, shall not be restricted or regulated by the provisions of this chapter.

(3) Nothing contained in this chapter shall affect any laws, administrative regulations, ordinances, resolutions, or local regulations against driving under the influence of alcohol or other drugs, or other similar offenses that involve the operation of motor vehicles, machinery, or other hazardous equipment.

➔Section 10. KRS 222.005 is amended to read as follows:

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

(1) "Administrator" means the person or the designee of the person, in charge of the operation of ***substance use disorder***~~[an alcohol and other drug abuse]~~ prevention, intervention, or treatment program;

(2) "Agency" means a legal entity operating hospital-based or nonhospital-based ***substance use disorder***~~[alcohol and other drug abuse]~~ prevention, intervention, or treatment programs;

(3) ~~["Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:~~

~~(a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;~~

~~(b) Use in situations which are potentially physically hazardous;~~

~~(c) Loss of control over the use of alcohol or other drugs or both; and~~

~~(d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both;~~

~~(4)]~~"Cabinet" means the Cabinet for Health and Family Services;

(4)~~[(5)]~~ "Director" means the director of the Division of Behavioral Health of the Department for Behavioral Health, Developmental and Intellectual Disabilities;

(5)~~[(6)]~~ "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical;

(6)~~[(7]~~) "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function;

~~[(8) "Juvenile" means any person who is under the age of eighteen (18);]~~

(7)~~[(9)]~~ "Narcotic treatment program" means a substance ***use disorder***~~[abuse]~~ program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group;

(8)~~[(10)]~~ "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900;

(9)~~[(11)]~~ "Patient" means any person admitted to a hospital or a licensed ***substance use disorder***~~[alcohol and other drug abuse]~~ treatment program;

(10)~~[(12)]~~ "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating ***substance use disorder***~~[alcohol and other drug abuse]~~ problems;

(11)~~[(13)]~~ "Secretary" means the secretary of the Cabinet for Health and Family Services;

(12) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems. Criteria

for substance use disorder are in the most current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

(13) ~~[(14)]~~ "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from ***substance use disorder*** ~~[alcohol and other drug abuse]~~. "Treatment" includes those services provided by the cabinet in KRS 222.211 and, in KRS 222.430 to 222.437, it specifically includes the services described in KRS 222.211(1)(c) and (d); and

(14) ~~[(15)]~~ "Qualified health professional" has the same meaning as qualified mental health professional in KRS 202A.011, except that it also includes an alcohol and drug counselor licensed or certified under KRS Chapter 309.

➔Section 11. KRS 222.211 is amended to read as follows:

(1) The cabinet shall, in conjunction with the Office of Drug Control Policy and KY-ASAP and in furtherance of the strategic plan developed in KRS 15A.342, coordinate matters affecting ***nicotine dependence*** ~~[tobacco addiction]~~ and ***substance use disorder*** ~~[alcohol and other drug abuse]~~ in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for ***individuals under age eighteen (18) years*** ~~[both juveniles]~~ and adults to address the problems of ***nicotine dependence*** ~~[tobacco addiction]~~ and ***substance use disorder*** ~~[alcohol and other drug abuse]~~ within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:

(a) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of ***nicotine dependence*** ~~[tobacco addiction]~~ and ***substance use disorder*** ~~[alcohol and other drug abuse]~~ related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or nonuse of tobacco ***and nicotine products***, alcohol, and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;

(b) Intervention services for the purpose of identifying, motivating, and referring individuals in need of ***nicotine dependence*** ~~[tobacco addiction]~~ and ***substance use disorder*** ~~[alcohol and other drug abuse]~~ education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;

(c) ***Withdrawal management*** ~~[Detoxification]~~ services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed ***substance use disorder*** ~~[alcohol and other drug abuse]~~ program;

(d) ***Substance use disorder treatment*** ~~[Rehabilitation]~~ services offered on an inpatient or outpatient basis for the purposes of treating an individual's ***substance use disorder*** ~~[alcohol and other drug abuse problem]~~. The services shall be provided in a licensed ***substance use disorder*** ~~[alcohol and other drug abuse]~~ program;

(e) Therapeutic services to family members ***and significant others*** of ***individuals with a substance use disorder*** ~~[alcohol and other drug abusers]~~ for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an ***individual with a substance use disorder*** ~~[alcohol or other drug abuser]~~. The services shall be offered primarily on ***an*** ~~[a]~~ outpatient basis;

(f) Inpatient psychiatric services for those ***individuals with a substance use disorder*** ~~[alcohol and other drug abusers]~~ whose diagnosis reflects both serious mental ***illness*** ~~[health disturbances]~~ as well as ***a substance use disorder*** ~~[alcohol and other drug abuse disorders]~~;

(g) Training programs for personnel working in the field of prevention, intervention, and treatment of ***nicotine dependence*** ~~[tobacco addiction]~~ and ***substance use disorders*** ~~[alcohol and other drug abuse problems]~~; and

(h) Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.

(2) The cabinet shall comply with all policy recommendations of the Office of Drug Control Policy and KY-ASAP, and shall honor requests for information from the Office of Drug Control Policy created under KRS 15A.020.

➔Section 12. KRS 222.221 is amended to read as follows:

~~[(1)]~~The cabinet may:

(1) ~~[(a)]~~ Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with government departments, public and private agencies and facilities, physicians, and other persons rendering services to ***individuals with a substance use disorder*** ~~[alcohol and other drug abusers]~~. All rates shall be established in accordance with administrative regulations promulgated by the cabinet under KRS Chapter 13A. Income and resources of ***individuals with a substance use disorder*** ~~[alcohol and other drug abusers]~~ to pay for services shall be taken into consideration to the fullest extent possible, and the cabinet shall be subrogated to any public or private third-party payments which may be due;

(2) ~~[(b)]~~ Establish and operate facilities if adequate public and private resources are not available;

(3) ~~[(c)]~~ Solicit and accept for use in relation to the purposes of this chapter any gift or bequest of money or property and any grant or loans of money, services, or property from the federal government, the Commonwealth or any political subdivision thereof. Any money received under this paragraph shall be deposited in the State Treasury to be kept in a separate fund which is hereby created, for expenditure by the cabinet in accordance with the conditions of the gift, bequest, loan, or grant without specific appropriations; and

(4) ~~[(d)]~~ Promulgate administrative regulations pursuant to KRS Chapter 13A setting standards for the admission of patients to its facilities and set fees for treatment. Except as otherwise provided by law, all provisions of KRS Chapter 210 relating to charges and collection for treatment of ***individuals with a mental illness*** ~~[the mentally ill]~~ shall apply to fees and collection of fees for treatment of ***individuals with a substance use disorder*** ~~[alcohol and other drug abusers]~~.

~~[(2) The cabinet shall prepare and publish annually a directory of all alcohol and other drug abuse facilities and services available in the Commonwealth. This directory shall be made available upon request.]~~

➔Section 13. KRS 222.231 is amended to read as follows:

(1) The cabinet shall issue for a term of one (1) year, and may renew for like terms, a license, subject to revocation by it for cause, to any persons, other than ***a substance use disorder*** ~~[an alcohol and other drug abuse]~~ program that has been issued a license by the cabinet entitled "Chemical Dependency Treatment Services" pursuant to KRS ***216B.042*** ~~[216B.105]~~ or a department, agency, or institution of the federal government, deemed by it to be responsible and suitable to establish and maintain a program and to meet applicable licensure standards and requirements.

(2) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing requirements and standards for licensing agencies and approving programs. The requirements and standards shall include:

(a) The health and safety standards to be met by a facility housing a program;

(b) Patient care standards and minimum operating, training, and maintenance of patient records standards;

(c) Licensing fees, application, renewal and revocation procedures, and the procedures for evaluation of the ***substance use disorder*** ~~[alcohol and other drug abuse]~~ programs; and

(d) Classification of ***substance use disorder*** ~~[alcohol and other drug abuse]~~ programs according to type, range of services, and level of care provided.

(3) The cabinet may establish different requirements and standards for different kinds of programs, and may impose stricter requirements and standards in contracts with agencies made pursuant to KRS 222.221.

(4) Each agency shall be individually licensed or approved.

(5) Each agency shall file with the cabinet from time to time, the data, statistics, schedules, or information the cabinet may reasonably require for the purposes of this section.

(6) ***(a)*** The cabinet shall have authority to deny, revoke, ***or*** modify~~[, or suspend]~~ a license in any case in which it finds that there has been a substantial failure to comply with the provisions of this chapter or the administrative regulations promulgated thereunder. The denial, revocation, ***or*** modification~~[, or suspension]~~ shall be effected by ***providing***~~[mailing]~~ to the applicant or licensee, by certified mail ***or other method of delivery, which may include electronic service***, a notice setting forth the particular reasons for the action. The denial, revocation, ***or*** modification~~[, or suspension]~~ shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within this thirty (30) day period, ***files***~~[shall file]~~ a request in writing for a hearing before the cabinet.

(b) If the cabinet has probable cause to believe that there is an immediate threat to public health, safety, or welfare, the cabinet may issue an emergency order to suspend the license. The emergency order to suspend the license shall be provided to the licensee, by certified mail or other method delivery, which may include electronic service, a notice setting forth the particular reasons for the action.

(7) ***Any person required to comply with an emergency order issued under subsection (6) of this section may request an emergency hearing within five (5) calendar days of receipt of the notice to determine the propriety of the order. The cabinet shall conduct an emergency hearing within ten (10) working days of the request for a hearing. Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the emergency order. The emergency order shall be affirmed if there is substantial evidence of a violation of law that constitutes an immediate danger to public health, safety, or welfare. The decision rendered by the hearing officer shall be a final order of the cabinet on the matter, and any party aggrieved by the decision may appeal to the Franklin Circuit Court.***

(8) If the cabinet issues an emergency order, the cabinet shall take action to revoke the facility's license if:

(a) The facility fails to submit a written request for an emergency hearing within five (5) calendar days of receipt of the notice; or

(b) The decision rendered under subsection (7) of this section affirms that there is substantial evidence of an immediate danger to public health, safety, or welfare.

(9) ***(a)*** The cabinet, after holding a hearing conducted by a hearing officer appointed by the secretary and conducted in accordance with KRS Chapter 13B, may refuse to grant, suspend, revoke, limit, or restrict the applicability of or refuse to renew any agency license or approval of programs for any failure to meet the requirements of its administrative regulations or standards concerning a licensed agency and its program.

(b) Within five (5) working days of completion of a hearing on an emergency suspension or within thirty (30) calendar days from the conclusion of a hearing on the denial, revocation or modification of a license, the findings and recommendations of the hearing officer shall be transmitted to the cabinet, with a synopsis of the evidence contained in the record and a statement of the basis of the hearing officer's findings.

(c) A petition for judicial review shall be made to the Franklin Circuit Court in accordance with KRS Chapter 13B.

(10)~~[(8)]~~ No person, excepting ***a substance use disorder***~~[an alcohol and other drug abuse]~~ program that has been issued a license by the cabinet entitled "Chemical Dependency Treatment Services" pursuant to KRS ***216B.042***~~[216B.105]~~ or a department, agency, or institution of the federal government, shall operate a program without a license pursuant to this section.

(11)~~[(9)]~~ Each program operated by a licensed agency shall be subject to visitation and inspection by the cabinet and the cabinet shall inspect each agency prior to granting or renewing a license. The cabinet may examine the books and accounts of any program if it deems the examination necessary for the purposes of this section.

(12)~~[(10)]~~ The director may require agencies ***that***~~[which]~~ contract with the Commonwealth pursuant to KRS 222.221 to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter, subject to service and bed availability and medical necessity.

(13)~~[(11)]~~ The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the extent to which programs may be required to treat any person on an inpatient or outpatient basis pursuant to

this chapter, except that no licensed hospital with an emergency service shall refuse any person suffering from acute alcohol or other drug intoxication or severe withdrawal syndrome from emergency medical care.

(14) ~~[(12)]~~ All narcotic treatment programs shall be licensed under this section prior to operation. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish additional standards of operation for narcotic treatment programs. The administrative regulations shall include minimum requirements in the following areas:

(a) Compliance with relevant local ordinances and zoning requirements;

(b) Submission of a plan of operation~~[, including memoranda of agreement which reflect supportive services from local hospitals, law enforcement agencies, correctional facilities, community agencies for mental health or individuals with an intellectual disability, and other alcohol and drug abuse services in the community]~~;

(c) Criminal records checks for employees of the narcotic treatment program~~[. Narcotic treatment programs shall not employ any person convicted of a crime involving a controlled substance as defined in KRS Chapter 218A]~~;

(d) Conditions under which clients are permitted to take home doses of medications;

(e) ***Drug*** ~~[Urine]~~ screening requirements;

(f) Quality assurance procedures;

(g) Program ***director*** ~~[sponsor]~~ requirements;

(h) Qualifications for the medical director for a narcotic treatment program, who at a minimum shall:

1. ~~[Be a licensed physician pursuant to KRS Chapter 311 and function autonomously within the narcotic treatment program; and~~

2. ~~]~~Be a board eligible psychiatrist licensed to practice in Kentucky and have three (3) years' documented experience in the provision of services to ***individuals with a substance use disorder*** ~~[persons who are addicted to alcohol or other drugs]~~; or

2. ~~[3.]~~ Be a physician licensed ***to practice in Kentucky*** ~~[pursuant to KRS Chapter 311]~~ and ***be board*** certified as an ***addiction medicine specialist;*** ~~[addictionologist by the American Society of Addiction Medicine.]~~

(i) Security and control of narcotics and medications;

(j) Program admissions standards;

(k) Treatment protocols;

(l) Treatment compliance requirements for program clients;

(m) Rights of clients; and

(n) Monitoring of narcotic treatment programs by the cabinet.

➔Section 14. KRS 222.271 is amended to read as follows:

(1) The administrator of each program shall keep a record of the treatment afforded each ***substance use disorder*** ~~[alcohol and other drug abuse]~~ patient, which shall be confidential in accordance with administrative regulations promulgated by the cabinet.

(2) Any patient may have a physician retained by him examine him, consult privately with his attorney, receive visitors, and send and receive communications by mail, telephone, and telegraph. The communications shall not be censored or read without consent of the patient. The right of the administrator, subject to administrative regulations of the cabinet, to prescribe reasonable rules governing visitation rights, use of the mail, and telephone and telegraph facilities shall not be limited.

➔Section 15. KRS 222.311 is amended to read as follows:

(1) No hospital shall deny treatment to a person solely because of his ***or her substance use disorder*** ~~[alcohol and other drug abuse]~~.

(2) Any intoxicated person admitted to a licensed ***substance use disorder*** ~~[alcohol and other drug abuse]~~ program or a hospital licensed to provide chemical dependency treatment or detoxification services, shall receive

treatment at the program or hospital for as long as the person wishes to remain, or until benefits expire, or the administrator determines that treatment will no longer benefit the person.

➔Section 16. KRS 222.421 is amended to read as follows:

(1) Any person may request treatment from a physician or ***substance use disorder*** ~~[alcohol and other drug abuse]~~ program licensed or approved by the cabinet to provide ***substance use disorder*** ~~[alcohol and other drug abuse]~~ treatment services. Persons infected with HIV, hepatitis B, or hepatitis C shall have priority access to any licensed treatment services.

(2) Every ***substance use disorder*** ~~[alcohol and other drug abuse]~~ program that provides intervention or treatment services to a person with ***a substance use disorder*** ~~[an alcohol and other drug abuse problem]~~ or prevention programming to any persons in the community shall, upon request of the cabinet, make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided prevention, intervention, and treatment services during a specified period of time. The name or address of any person to whom prevention, intervention, or treatment services were provided shall not be reported. The secretary shall provide compilations of the statistical information to other appropriate agencies upon request.

➔Section 17. KRS 222.430 is amended to read as follows:

(1) Involuntary treatment ordered for a person suffering from ***substance use disorder*** ~~[alcohol and other drug abuse]~~ shall follow the procedures set forth in KRS 222.430 to 222.437.

(2) Except as otherwise provided for in KRS 222.430 to 222.437, all rights guaranteed by KRS Chapters 202A and 210 to involuntarily hospitalized mentally ill persons shall be guaranteed to a person ordered to undergo treatment for ***substance use disorder*** ~~[alcohol and other drug abuse]~~.

➔Section 18. KRS 222.431 is amended to read as follows:

No person suffering from ***substance use disorder*** ~~[alcohol and other drug abuse]~~ shall be ordered to undergo treatment unless that person:

(1) Suffers from ***substance use disorder*** ~~[alcohol and other drug abuse]~~;

(2) Presents an imminent threat of danger to self, family, or others as a result of ***a substance use disorder*** ~~[alcohol and other drug abuse]~~, or there exists a substantial likelihood of such a threat in the near future; and

(3) Can reasonably benefit from treatment.

➔Section 19. KRS 222.432 is amended to read as follows:

(1) Proceedings for sixty (60) days or three hundred sixty (360) days of treatment for an individual suffering from ***substance use disorder*** ~~[alcohol and other drug abuse]~~ shall be initiated by the filing of a verified petition in District Court.

(2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."

(3) The petition shall be filed by a spouse, relative, friend, or guardian of the individual concerning whom the petition is filed.

(4) The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence, and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that the person is unknown; and

(f) Petitioner's belief, including the factual basis therefor, that the respondent is suffering from an alcohol and other drug abuse disorder and presents a danger or threat of danger to self, family, or others if not treated for ***substance use disorder*** ~~[alcohol or other drug abuse]~~.

Any petition filed pursuant to this subsection shall be accompanied by a guarantee, signed by the petitioner or other person authorized under subsection (3) of this section, obligating that person to pay all costs for

treatment of the respondent for ***substance use disorder*** ~~[alcohol and other drug abuse]~~ that is ordered by the court.

➔Section 20. KRS 222.433 is amended to read as follows:

(1) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.

(2) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:

(a) Set a date for a hearing within fourteen (14) days to determine if there is probable cause to believe the respondent should be ordered to undergo treatment for ***a substance use disorder*** ~~[alcohol and other drug abuse]~~;

(b) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and

(c) Cause the respondent to be examined no later than twenty-four (24) hours before the hearing date by two (2) qualified health professionals, at least one (1) of whom is a physician. The qualified health professionals shall certify their findings to the court within twenty-four (24) hours of the examinations.

(3) If, upon completion of the hearing, the court finds the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition or otherwise agreed to at the hearing. Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.

(4) If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed.

➔Section 21. KRS 222.434 is amended to read as follows:

(1) Following an examination by a qualified health professional and a certification by that professional that the person meets the criteria specified in KRS 222.431, the court may order the person hospitalized for a period not to exceed seventy-two (72) hours if the court finds, by clear and convincing evidence, that the respondent presents an imminent threat of danger to self, family, or others as a result of ***a substance use disorder*** ~~[alcohol and other drug abuse]~~.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours of admittance.

(3) No respondent ordered hospitalized under this section shall be held in jail pending transportation to the hospital or evaluation unless the court has previously found the respondent to be in contempt of court for either failure to undergo treatment or failure to appear at the evaluation ordered pursuant to KRS 222.433.

➔Section 22. KRS 222.435 is amended to read as follows:

When the court is authorized to issue an order that the respondent be transported to a hospital, the court may, or if the respondent fails to attend an examination scheduled before the hearing provided for in KRS 222.433 then the court shall, issue a summons. A summons so issued shall be directed to the respondent and shall command the respondent to appear at a time and place therein specified. If a respondent who has been summoned fails to appear at the hospital or the examination, then the court may order the sheriff or other peace officer to transport the respondent to a hospital or psychiatric facility designated by the cabinet for treatment under KRS 210.485. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the respondent to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be included in the costs of treatment for ***a substance use disorder*** ~~[alcohol and other drug abuse]~~ to be paid by the petitioner.

➔Section 23. KRS 222.441 is amended to read as follows:

(1) Notwithstanding any other law, a minor who suffers from ***a substance use disorder*** ~~[an alcohol and other drug abuse problem]~~ or emotional disturbance from the effects of a family member or legal guardian's ***substance***

use disorder~~[alcohol and other drug abuse problem]~~ or the parent or guardian of the minor may give consent to the furnishing of medical care or counseling related to the assessment or treatment of the conditions. The consent of the minor shall be valid as if the minor had achieved majority. No person or facility shall incur liability by reason of having made a diagnostic examination or rendered treatment as provided in this section, but the immunity shall not apply to any negligent acts or omissions.

(2) A minor hospitalized or treated without the minor's consent but with the consent of the parent or guardian may petition the District Court to determine whether the minor is suffering from ***a substance use disorder***~~[alcohol or drug abuse or addiction]~~ and whether the treatment is necessary for the health and welfare of the minor.

➔Section 24. KRS 222.460 is amended to read as follows:

(1) As a requirement to receive state or federal funds, including Medicaid, a treatment center or program licensed as a chemical dependency treatment service pursuant to KRS ***216B.042***~~[216B.105]~~ or this chapter shall participate in an evaluation or client-outcome effectiveness study conducted by the cabinet.

(2) Information for the evaluation shall include, but is not limited to, the following:

(a) The total number of ***substance use disorder***~~[alcohol and drug abuse]~~ clients admitted to treatment;

(b) The total number of referrals from the District and Circuit Courts and the Department of Corrections;

(c) The client's change in ***substance use***~~[alcohol and other drug use]~~ patterns from admission to discharge from treatment;

(d) The client's change in employment status from admission to discharge from treatment; and

(e) The client's change in involvement with the criminal justice system from admission to discharge from treatment.

(3) All information collected pursuant to this chapter shall be held confidential with respect to the identity of individual clients. Access to information that identifies individual clients may be provided to qualified persons or organizations with a valid scientific interest, as determined by the secretary, who are engaged in research related to patterns of drug and alcohol use, the effectiveness of treatment, or similar studies and who agree in writing to maintain confidentiality.

➔Section 25. KRS 222.465 is amended to read as follows:

(1) All inpatient, residential, or outpatient treatment centers or programs licensed as a chemical dependency treatment service pursuant to KRS ***216B.042***~~[216B.105]~~ or this chapter and receiving state or federal funds, shall participate in a client-outcome study conducted by the cabinet. This scientifically-conducted client-oriented evaluation study shall measure the relative change in a client as a result of the client's participation in specific treatment modalities. The client-outcome study shall measure the client's length of stay in each treatment modality and the client's change in behavior one (1) year after being discharged from a treatment program.

(2) Follow-up reports on a scientifically-based sample of clients discharged from chemical dependency treatment programs shall be gathered by an independent organization qualified to conduct outcome evaluation and submitted to the cabinet in a format to be determined by administrative regulations of the cabinet. The follow-up report shall measure the client's current ***substance use***~~[alcohol or drug use]~~ patterns, employment status, educational status, and involvement in the criminal justice system. Follow-up reports may be conducted through telephone or mail surveys of clients and the cost of reports shall be borne by the cabinet.

(3) Clients who refuse to participate in the follow-up report or who cannot reasonably be located shall be noted in the follow-up report.

➔Section 26. KRS 304.17A-660 is amended to read as follows:

As used in KRS 304.17A-660 to 304.17A-669, unless the context requires otherwise:

(1) "Mental health condition" means any condition or disorder that involves mental illness or ***substance use disorder***~~[alcohol and other drug abuse]~~ as defined in KRS 222.005 and that falls under any of the diagnostic categories listed in the Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition) or that is listed in the mental disorders section of the international classification of disease, or the most recent subsequent editions;

(2) "Terms or conditions" includes day or visit limits, episodes of care, any lifetime or annual payment limits, deductibles, copayments, prescription coverage, coinsurance, out-of-pocket limits, and any other cost-sharing requirements; and

(3) "Treatment of a mental health condition" includes, but is not limited to, any necessary outpatient, inpatient, residential, partial hospitalization, day treatment, emergency detoxification, or crisis stabilization services.

➔Section 27. KRS 311B.160 is amended to read as follows:

The board may deny, revoke, or suspend the license of an individual who:

(1) Has engaged in conduct relating to his or her profession that is likely to deceive, defraud, or harm the public;

(2) Has ***a substance use disorder that impairs the individual's ability to perform his or her duties*** ~~[engaged in alcohol and other drug abuse as defined in KRS 222.005]~~;

(3) Develops a physical or mental disability or other condition that makes continued practice or performance of his or her duties potentially dangerous to patients or the public;

(4) Performs procedures under or represents as valid to any person a license:

(a) Not issued by the board;

(b) Containing unauthorized alterations; or

(c) Containing changes that are inconsistent with board records regarding its issuance;

(5) Has been convicted of a crime that is a felony under the laws of this state or convicted of a felony in a federal court, unless the individual has had all civil rights restored, if in accordance with KRS Chapter 335B;

(6) Exhibits significant or repeated failure in the performance of professional duties; or

(7) Fails to comply with any administrative regulation of the board.

➔Section 28. KRS 600.020 is amended to read as follows:

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

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:

(a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:

1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to ***a substance use disorder*** ~~[alcohol and other drug abuse]~~ as defined in KRS 222.005;

4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

7. Abandons or exploits the child;

8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or

9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) cumulative months out of forty-eight (48) months; or

(b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;

(2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);

(3) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:

(a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;

(b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;

(c) The parent has sexually abused the child and has refused available treatment;

(d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or

(e) The parent has caused the child serious physical injury;

(4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(5) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

(6) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(7) "Cabinet" means the Cabinet for Health and Family Services;

(8) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(9) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;

(10) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(11) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(12) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(13) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;

(14) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(15) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(16) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(17) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(18) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(19) "Department" means the Department for Community Based Services;

(20) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(21) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;

(22) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

(23) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;

(24) "Eligible youth" means a person who:

(a) Is or has been committed to the cabinet as dependent, neglected, or abused;

(b) Is eighteen (18) years of age to nineteen (19) years of age; and

(c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;

(25) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(26) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;

(27) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;

(28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;

(29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(30) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(31) "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:

(a) Electronic monitoring;

(b) Drug and alcohol screening, testing, or monitoring;

(c) Day or evening reporting centers;

(d) Reporting requirements;

(e) Community service; and

(f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;

(32) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;

(33) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;

(34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(35) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(36) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(37) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for appropriate family engagement;

(39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(40) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(41) "Needs of the child" means necessary food, clothing, health, shelter, and education;

(42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;

(43) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(44) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

(45) "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, fictive kin home, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;

(46) "Parent" means the biological or adoptive mother or father of a child;

(47) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(48) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(49) "Physical injury" means substantial physical pain or any impairment of physical condition;

(50) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

(51) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(52) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or

(h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:

1. Provides documentation that he or she has completed a psychiatric residency program for physician assistants;

2. Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840, who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;

3. Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840, and:

a. Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or

b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or

4. Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:

   a. Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or

   b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;

(53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);

(54) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(55) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(56) "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;

(57) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(58) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(59) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(60) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(62) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

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

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

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

   1. Beyond the control of school or beyond the control of parents;

   2. Habitual Runaway;

   3. Habitual truant;

   4. Tobacco offenses as provided in KRS 438.305 to 438.340; and

5. Alcohol offenses as provided in KRS 244.085.

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

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

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

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

(a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and

(b) Is as detailed as the youth may elect;

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

(a) Who was brought before the court and made subject to the order;

(b) Whose future conduct was regulated by the order;

(c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and

(d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;

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

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

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

➔Section 29. KRS 610.127 is amended to read as follows:

Reasonable efforts as defined in KRS 620.020 shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction determines that the parent has:

(1) Subjected the child to aggravated circumstances as defined in KRS 600.020;

(2) Been convicted in a criminal proceeding of having caused or contributed to the death of another child of the parent;

(3) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent;

(4) Had their parental rights to another child terminated involuntarily;

(5) Engaged in a pattern of conduct due to ***a substance use disorder*** ~~[alcohol or other drug abuse]~~ as defined in KRS 222.005 for a period of not less than ninety (90) days that has rendered the parent incapable of caring for the immediate and ongoing needs of the child, and the parent has refused or failed to complete available treatment for alcohol or other drug abuse;

(6) Mental illness as defined in KRS 202A.011 or is an individual with an intellectual disability as defined in KRS 202B.010 or other developmental disability as defined in KRS 387.510 that places the child at substantial risk of physical or emotional injury even if the most appropriate and available services were provided to the parent for twelve (12) months;

(7) Sexually abused the child or is required to register on a sex offender registry under 42 U.S.C. sec. 16913, the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248; or

(8) Other circumstances in existence that make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the best interests of the child and with the permanency plan for the child.

➔Section 30. KRS 620.023 is amended to read as follows:

(1) Evidence of the following circumstances if relevant shall be considered by the court in all proceedings conducted pursuant to KRS Chapter 620 in which the court is required to render decisions in the best interest of the child:

(a) Mental illness as defined in KRS 202A.011 or an intellectual disability as defined in KRS 202B.010 of the parent, as attested to by a qualified mental health professional, which renders the parent unable to care for the immediate and ongoing needs of the child;

(b) Acts of abuse or neglect as defined in KRS 600.020 toward any child;

(c) ***Substance use disorder*** ~~[Alcohol and other drug abuse]~~, as defined in KRS 222.005, that results in an incapacity by the parent or caretaker to provide essential care and protection for the child;

(d) A finding of domestic violence and abuse as defined in KRS 403.720, whether or not committed in the presence of the child;

(e) Any other crime committed by a parent which results in the death or permanent physical or mental disability of a member of that parent's family or household; and

(f) The existence of any guardianship or conservatorship of the parent pursuant to a determination of disability or partial disability as made under KRS 387.500 to 387.770 and 387.990.

(2) In determining the best interest of the child, the court may consider the effectiveness of rehabilitative efforts made by the parent or caretaker intended to address circumstances in this section.

➔Section 31. The following KRS sections are repealed:

222.001 Chapter title.

210.500 Legislative findings on planning for mental health and substance abuse services.

210.502 Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

210.504 Commission meetings -- Duties -- Development of comprehensive state plan.

210.580 Joint ad hoc committee on transitioning from children's services systems to adult services systems -- Membership -- Duties -- Report.

Signed by Governor March 26, 2019.

CHAPTER 129

(HB 479)

AN ACT relating to guardianship.

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

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

(1) The Cabinet for Health and Family Services may be appointed and act as executor, administrator, guardian, limited guardian, conservator, or limited conservator as provided in this section. In this capacity the cabinet may act as a fiduciary and transact business in the same manner as any individual and for fiduciary purposes may sue and be sued in any of the courts of the state. Bond shall not be required of the cabinet.

(2) (a) Whenever a resident of the state is adjudged partially disabled or disabled and no other suitable person or entity is available and willing to act as limited guardian, guardian, limited conservator, or conservator, the cabinet may be appointed as the resident's limited guardian, guardian, limited conservator, or conservator. As used in this paragraph, "resident of the state" means an individual who has a permanent, full-time residence in Kentucky prior to the filing of a petition for or appointment of a limited guardian, guardian, limited conservator, or conservator for at least the previous six (6) months

that is not a hospital, treatment facility, correctional facility, or long-term care facility, and who is a citizen or permanent resident of the United States.

(b) Notwithstanding paragraph (a) of this subsection, except upon written order of the court in exceptional circumstances, the cabinet shall not be appointed as a limited guardian, guardian, limited conservator, or conservator of a partially disabled or disabled person when the person:

1. Has been convicted of, pled guilty to, or entered an Alford plea for a sex crime as defined in KRS 17.500 or an offense that would classify the person as a violent offender under KRS 439.3401; or

2. Is not alive or cannot be physically located.

(c) Before appointing the cabinet, consideration shall be given to the average caseload of each field social worker.

(d) The cabinet, acting through its designated officer, may apply to the District Court of the county in which the adjudication is made for appointment as limited guardian, guardian, limited conservator, or conservator for a partially disabled or disabled person who meets the requirements of this subsection.

(3) When the cabinet is appointed as a limited guardian, guardian, limited conservator, or conservator of a partially disabled or disabled person, the cabinet shall not:

(a) Assume physical custody of the person;

(b) Be assigned as the person's caregiver or custodian; or

(c) Become personally liable for the person's expenses or placement, or to third parties for the person's actions. However, the cabinet shall procure resources and services for which the person is eligible when necessary and available.

(4) (a) Except as provided in paragraph (b) of this subsection, upon the death of a person for whom the cabinet has been appointed guardian or conservator, or upon the death of a person who has been committed to the cabinet leaving an estate and having no relatives at the time residing within the state, the cabinet may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(b) If a person for whom the cabinet has been appointed guardian or conservator dies with less than ten thousand dollars ($10,000) of personal property or money, the cabinet shall not be required to apply for appointment as administrator. However, prior to the release of funds to the person's estate, the cabinet shall ensure all outstanding bills related to living expenses, reasonable funeral expenses when not prepaid, and estate recovery are paid. ***Any funds that remain after those expenses are paid, may be released first to other creditors and then to the relatives of the ward. The cabinet shall establish an online registry to provide public notice of remaining funds to other creditors and relatives of the ward, and the process for claiming those funds. Notwithstanding KRS 393.020, if the funds of a ward are less than ten thousand dollars ($10,000) and remain unclaimed after the expiration of one (1) year from the date public notice is made, the funds shall escheat to the guardianship trust fund established in subsection (5) of this section.***

(5) There is created in the cabinet a trust and agency fund to be known as the guardianship trust fund. The trust shall consist of funds of deceased wards that remain after living, funeral, and estate recovery expenses are paid and that are unclaimed for one (1) year after public notice is made. The trust may also receive donations or grant funds for the support of indigent wards. Notwithstanding KRS 45.229, any unused trust balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year. Any interest earnings of the trust shall become part of the trust and shall not lapse. The trust may make investments as authorized by subsection (7) of this section and may use funds in the trust for the benefit of indigent wards for expenses including:

(a) Temporary housing costs;

(b) Medical supplies or transportation services not covered by Medicaid;

(c) Emergency personal needs, including clothing or food;

(d) Burial expenses if no county funds are available in the county of death; and

(e) Expenses necessary to ensure health, safety, and well-being when no other funds are available or accessible in a timely manner.

(6) The cabinet shall make available an annual report of income and expenditures from the guardianship trust fund. The trust shall be subject to an independent audit at the request of the General Assembly or the State Auditor.

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

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

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

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

Signed by Governor March 26, 2019.

CHAPTER 130

(HB 470)

AN ACT relating to controlled substances.

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

➔Section 1. KRS 217.186 is amended to read as follows:

(1) A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a person or agency who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute. As used in this subsection, "licensed health-care provider" includes a pharmacist as defined in KRS 315.010 who holds a separate certification issued by the Kentucky Board of Pharmacy authorizing the initiation of the dispensing of naloxone under subsection (5) of this section.

(2) A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration.

(3) A person or agency, including a peace officer, jailer, firefighter, paramedic, or emergency medical technician or a school employee authorized to administer medication under KRS 156.502, may:

(a) Receive a prescription for the drug naloxone;

(b) Possess naloxone pursuant to this subsection and any equipment needed for its administration; and

(c) Administer naloxone to an individual suffering from an apparent opiate-related overdose.

(4) A person acting in good faith who administers naloxone received under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.

(5) (a) The Board of Pharmacy, in consultation with the Kentucky Board of Medical Licensure, shall promulgate administrative regulations to establish certification, educational, operational, and protocol requirements to implement this section.

(b) Administrative regulations promulgated under this subsection shall:

1. Require that any dispensing under this section be done only in accordance with a physician-approved protocol and specify the minimum required components of any such protocol;

2. Include a required mandatory education requirement as to the mechanism and circumstances for the administration of naloxone for the person to whom the naloxone is dispensed; and

3. Require that a record of the dispensing be made available to a physician signing a protocol under this subsection, if desired by the physician.

(c) Administrative regulations promulgated under this subsection may include:

1. A supplemental educational or training component for a pharmacist seeking certification under this subsection; and

2. A limitation on the forms of naloxone and means of its administration that may be dispensed pursuant to this subsection.

(6) (a) The board of each local public school district and the governing body of each private and parochial school or school district may permit a school to keep naloxone on the premises and regulate the administration of naloxone to any individual suffering from an apparent opiate-related overdose.

(b) In collaboration with local health departments, local health providers, and local schools and school districts, the Kentucky Department for Public Health shall develop clinical protocols to address supplies of naloxone kept by schools under this section and to advise on the clinical administration of naloxone.

(7) Notwithstanding any provision of law to the contrary, a pharmacist may utilize the protocol established by this section to dispense naloxone to any person or agency who provides training on the mechanism and circumstances for the administration of naloxone to the public as part of a harm reduction program, regardless of whom the ultimate user of the naloxone may be. The documentation of the dispensing of naloxone to any person or agency operating a harm reduction program shall satisfy any general documentation or recording requirements found in administrative regulations regarding legend drugs promulgated pursuant to this chapter.

➔Section 2. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:

(a) Four (4) grams or more of cocaine;

(b) Two (2) grams or more of methamphetamine;

(c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;

(d) Any quantity of heroin, fentanyl, carfentanil, or fentanyl derivatives; lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or

(e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.

(2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.

(3) (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(e) of this section~~[:~~

~~1.~~] shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense~~[; and~~

~~2. a. Except as provided in subdivision b. of this subparagraph, where the trafficked substance was heroin and the defendant committed the offense while possessing more than one (1) items of paraphernalia, including but not limited to scales, ledgers, instruments and material to cut, package, or mix the final product, excess cash, multiple subscriber identity modules in excess of the number of communication devices possessed by the person at the time of arrest, or weapons, which given the totality of the circumstances indicate the trafficking to have been a commercial activity, shall not be released on parole until he or she has served at least fifty percent (50%) of the sentence imposed.~~

~~b. This subparagraph shall not apply to a person who has been determined by a court to have had a substance use disorder relating to a controlled substance at the time of the offense. "Substance use disorder" shall have the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders]~~.

(c) Any person convicted of a Class C felony offense or higher under this section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin, fentanyl, carfentanil, or fentanyl derivatives.

➔Section 3. KRS 507.040 is amended to read as follows:

(1) A person is guilty of manslaughter in the second degree when he wantonly causes the death of another person, including, but not limited to, situations where the death results from the person's:

(a) Operation of a motor vehicle;~~[or]~~

(b) Leaving a child under the age of eight (8) years in a motor vehicle under circumstances which manifest an extreme indifference to human life and which create a grave risk of death to the child, thereby causing the death of the child***; or***

(c) Unlawful distribution for remuneration of a Schedule I or II controlled substance when the controlled substance is the proximate cause of death.

(2) Manslaughter in the second degree is a Class C felony.

Signed by Governor March 26, 2019.

CHAPTER 131

(HB 453)

AN ACT relating to business entities.

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

➔Section 1. KRS 273.161 is amended to read as follows:

As used in KRS 273.161 to 273.390, unless the context otherwise requires:

(1) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS 273.161 to 273.390, except a foreign corporation***, and for the purposes of KRS 273.277 to 273.293, the term "corporation" also means domestic nonprofit limited liability companies***;

(2) "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States;

(3) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state;

(4) "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers;

(5) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;

(6) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

(7) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;

(8) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which group is designated;

(9) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs;

(10) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located;

(11) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation;

(12) "Individual" includes the estate of an incompetent or deceased individual;

(13) "Entity" includes a domestic or foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business or statutory trust, estate, partnership, limited partnership, limited liability company, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government;

(14) "Person" includes individual and entity.

(15) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity;

(16) "Real name" shall have the meaning set forth in KRS 365.015;

(17) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;

(18) "Effective date of notice" means notice when effective under KRS 273.162(3);

(19) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;

(20) "Notice" means notice as described in KRS 273.162;~~[and]~~

(21) "Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature***; and***

(22) "Limited liability company" or "LLC" means a domestic nonprofit limited liability company.

➔Section 2. KRS 273.277 is amended to read as follows:

Any two (2) or more domestic corporations ***or a domestic corporation and a limited liability company*** may merge into one ***(1)*** of such corporations pursuant to a plan of merger approved in the manner provided in KRS 273.161 to 273.390. Each corporation ***or limited liability company*** shall adopt a plan of merger setting forth:

(1) The names of the corporations ***or limited liability companies*** proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(2) The terms and conditions of the proposed merger.

(3) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(4) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

➔Section 3. KRS 273.293 is amended to read as follows:

(1) One ***(1)*** or more domestic corporations, ***a domestic corporation and a domestic limited liability company,*** and one ***(1)*** or more foreign corporations of the type that may be organized under KRS 273.161 to 273.390 ***or KRS***

Chapter 275 may be merged into one ***(1)*** of such domestic corporations, or consolidated into a new corporation to be formed under KRS 273.161 to 273.390, provided that the foreign corporation or corporations are authorized by the laws of the government under which they were formed to effect such merger or consolidation. Each domestic corporation ***or limited liability company*** shall comply with the provisions of KRS 273.161 to 273.390 with respect to the merger or consolidation, as the case may be, of domestic corporations, ***limited liability companies*** and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized and of this state.

(2) After approval by the members, or if there be no members entitled to vote thereon, by the board of directors, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

➔Section 4. KRS 275.345 is amended to read as follows:

(1) Unless otherwise provided in writing in a written operating agreement, and subject to any law applicable to business entities other than limited liability companies, one (1) or more limited liability companies may merge with or into one (1) or more other business entities with the limited liability company or other business entity being the surviving or resulting limited liability company or other business entity.

(2) Rights or securities of or interests in a business entity that is a party to the merger may be exchanged for or converted into cash, property, obligations, rights, or securities of or interests in the surviving or resulting business entity or of any other business entity.

(3) Unless otherwise provided in the articles of organization, a written operating agreement, or a written agreement and plan of merger, no member of a limited liability company shall have the right to dissent from a merger.

(4) A nonprofit limited liability company shall not merge with or into any business entity which is not a domestic nonprofit limited liability company ***or a domestic nonprofit corporation***.

Signed by Governor March 26, 2019.

CHAPTER 132

(HB 446)

AN ACT relating to child welfare.

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

➔Section 1. KRS 620.140 is amended to read as follows:

(1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:

(a) Informal adjustment of the case;

(b) Protective orders, such as the following:

1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;

2. Placing the child in his ***or her*** own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and

3. Orders authorized by KRS 403.715 to 403.785 and by KRS Chapter 456;

(c) Removal of the child to the custody of an adult relative, fictive kin, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his ***or her*** home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child***. If a child is to be placed with an adult relative***

or fictive kin the parent or other person exercising custodial control or supervision shall provide a list to the cabinet of possible persons to be considered;

(d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or

(e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining nineteen (19) years of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).

(2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

➔Section 2. KRS 620.290 is amended to read as follows:

~~[(1)]~~The local citizen foster care review board shall submit to the court within fourteen (14) days of the six (6) month review its findings and recommendations. The findings and recommendations for each child under review shall include but need not be limited to:

(1) ~~[(a)]~~ Whether there is a plan for permanence;

(2) ~~[(b)]~~ Whether the plan is progressing;~~[and]~~

(3) ~~[(c)]~~ The appropriateness of the current placement or plan for permanence. If the local foster care review board determines that a current placement or plan for permanence is inappropriate, a notification shall be provided to the court, and the cabinet which shall summarize the position of the local foster care review board, the response of the cabinet, if any, to the concerns expressed by the local foster care review board***; and***

(4) The number of moves that have occurred during the child's placement into out-of-home care, including whether the child has moved three (3) or more times within a six (6) month period.

~~[(2) The local foster care review board shall submit to the court, with a copy to the cabinet, within fourteen (14) days of each meeting of the board, a list of each case reviewed in which a child has been moved three (3) or more times within a six (6) month period. The list shall include the name of the case, the court number, if available, the cabinet case number, the age, sex, and race of the child, and the number of moves that have occurred.]~~

➔Section 3. KRS 620.320 is amended to read as follows:

The duties of the State Citizen Foster Care Review Board shall be to:

(1) Establish, approve, and provide training programs for local citizen foster care review board members;

(2) Review and coordinate the activities of local citizen foster care review boards;

(3) Establish reporting procedures to be followed by the local citizen foster care review boards and publish an annual written report compiling data reported by local foster care review boards which shall include statistics relating, at a minimum, to the following:

(a) ***Barriers to permanency identified in reviews***~~[How the needs of children are being met]~~;

(b) The number of ***children moved more than three (3) times within a six (6) month period***~~[times children are moved and reasons for the moves]~~;

(c) The average length of time in care;

(d) ***Local solutions reported to meet identified barriers***~~[Sibling visitation]~~; and

(e) The total number and frequency of reviews;

(4) Publish an annual written report on the effectiveness of such local citizen foster care review boards; and

(5) Evaluate and make annual recommendations to the Supreme Court, Governor, and the Child Welfare Oversight and Advisory Committee established in KRS 6.943 regarding:

(a) Laws of the Commonwealth;

(b) Practices, policies, and procedures within the Commonwealth affecting permanence for children in out-of-home placement and the investigation of allegations of abuse and neglect;

(c) The findings of the local citizen foster care review board community forums conducted pursuant to KRS 620.270; and

(d) The effectiveness or lack thereof and reasons therefor of local citizen foster care review of children in the custody of the cabinet in bringing about permanence for the Commonwealth's children.

➔Section 4. KRS 620.360 is amended to read as follows:

(1) Persons who provide foster care services to children who have been committed to the custody of the state shall be considered a primary partner and member of a professional team caring for foster children. Foster parents shall have the following rights:

(a) To be treated with respect, consideration, and dignity;

(b) To fully understand the role of the cabinet and the role of other members of the child's professional team;

(c) To receive information and training about foster parents' rights, responsibilities, and access to local and statewide support groups, including but not limited to the Kentucky Foster/Adoptive Care Association, the Kentucky Foster and Adoptive Parent Network, and Adoption Support of Kentucky;

(d) To receive information and training to improve skills in the daily care and in meeting the special needs of foster children;

(e) To receive timely and adequate financial reimbursement for knowledgeable and quality care of a child in foster care within budgetary limitations;

(f) To maintain the foster family's own routines and values while respecting the rights and confidentiality of each foster child placed in their home;

(g) To receive a period of respite from providing foster care, pursuant to cabinet policies;

(h) To receive, upon an open records request, a copy of all information contained in the cabinet's records about the family's foster home and the foster care services provided by the family consistent with KRS 605.160;

(i) To access cabinet support and assistance as necessary twenty-four (24) hours per day, seven (7) days per week;

(j) To receive, prior to a child being placed in the foster home pursuant to KRS 605.090, information relating to the child's behavior, family background, or health history that may jeopardize the health or safety of any member of the foster family's household, including other foster children, and similar information that may affect the manner in which foster care services are provided, consistent with KRS 605.160. In an emergency situation, the cabinet shall provide information as soon as it is available;

(k) To refuse placement of a child within the foster home and to request, with reasonable notice to the cabinet, the removal of a child from the foster home without fear of reprisal;

(l) To communicate, with an appropriate release of information consistent with KRS 605.160, with other professionals who work directly with the foster child, including but not limited to teachers, therapists, and health care practitioners and to notify the cabinet within twenty-four (24) hours of the communication;

(m) To assist the cabinet in the development of the child's plan of care;

(n) To receive an explanatory notice from the cabinet, consistent with KRS 620.130 and when it is in the best interest of the child, when a foster child's case plan has changed and, except in an immediate response to a child protective services investigation involving the foster home, an explanatory notice of termination or change in placement affecting the foster home within fourteen (14) days of the change or termination in placement;

(o) To have priority consideration for placement if a child who has previously been placed in the foster home reenters foster care, consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child;

(p) To have priority consideration for adoption if a foster child who has been placed in the foster home for a period of at least twelve (12) consecutive months becomes eligible for adoption consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child;

(q) To maintain contact with the foster child after the child leaves the foster home, unless the child, a biological parent, the cabinet when the cabinet retains custody of the child, or other foster or adoptive parent refuses such contact; and

(r) To receive notice of, have a right to attend, and have a right to be heard in, either verbally or in writing, any cabinet or court proceeding held with respect to the child. This paragraph shall not be construed to require that a foster parent caring for the child be made a party to a proceeding solely on the basis of the notice and rights to attend and be heard.

(2) The responsibilities of foster parents shall include but not be limited to the following:

(a) To maintain an orderly and clean home;

(b) To ensure that the child has adequate resources for personal hygiene and clothing;

(c) To provide recreational and spiritual opportunities for the child, in accordance with cabinet policies;

(d) To attend all school and case planning meetings involving a foster child placed in their home whenever possible, subject to KRS 620.130 and the confidentiality requirements of 42 U.S.C. sec. 671;

(e) To abide by cabinet policies relating to discipline of a foster child; and

(f) To support the involvement of a foster child's biological family whenever possible and in accordance with cabinet policies.

(3) The cabinet shall provide specific training on investigations of alleged child abuse or neglect in a foster home to a person appointed by the Kentucky Foster/Adoptive Care Association. The training shall include the rights of a foster parent during an investigation. Training shall be consistent with 42 U.S.C. sec. 5106(a).

(4) ***The cabinet shall promulgate administrative regulations to establish that foster parent approval shall be effective for a minimum of three (3) years before reevaluation is required.***

(5) Nothing in this section shall be construed to establish monetary liability of or cause of action against the cabinet.

➔Section 5. KRS 625.060 is amended to read as follows:

(1) In addition to the child, the following shall be the parties in an action for involuntary termination of parental rights:

(a) The petitioner;

(b) The cabinet, if not the petitioner;~~[and]~~

(c) The biological parents, if known and if their rights have not been previously terminated. It shall not be necessary to make the putative father a party if he is exempted by KRS 625.065***; and***

(d) A foster parent of a child who is currently placed with the foster parent, and the child is part of the involuntary termination of parental rights action that is related to an allegation of dependency, neglect, or abuse pursuant to KRS Chapter 620, unless the judge determines this involvement is inappropriate.

(2) Any party other than the child who is not the petitioner shall be a respondent.

➔Section 6. KRS 625.090 is amended to read as follows:

(1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the pleadings and by clear and convincing evidence that:

(a) 1. The child has been adjudged to be an abused or neglected child, as defined in KRS 600.020(1), by a court of competent jurisdiction;

2. The child is found to be an abused or neglected child, as defined in KRS 600.020(1), by the Circuit Court in this proceeding;

3. The child is found to have been diagnosed with neonatal abstinence syndrome at the time of birth, unless his or her birth mother:

a. Was prescribed and properly using medication for a legitimate medical condition as directed by a health care practitioner that may have led to the neonatal abstinence syndrome; or

b. Is currently, or within ninety (90) days after the birth, enrolled in and maintaining substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care or postnatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy or the appropriate time after her pregnancy;~~[or]~~

4. The parent has been convicted of a criminal charge relating to the physical or sexual abuse or neglect of any child and that physical or sexual abuse, neglect, or emotional injury to the child named in the present termination action is likely to occur if the parental rights are not terminated;

(b) The Cabinet for Health and Family Services has filed a petition with the court pursuant to KRS 620.180; and

(c) Termination would be in the best interest of the child.

(2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

(b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to any child;

(e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(f) That the parent has caused or allowed the child to be sexually abused or exploited;

(g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;

(h) That:

1. The parent's parental rights to another child have been involuntarily terminated;

2. The child named in the present termination action was born subsequent to or during the pendency of the previous termination; and

3. The conditions or factors which were the basis for the previous termination finding have not been corrected;

(i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect;~~[or]~~

(j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) cumulative months out of forty-eight (48) months preceding the filing of the petition to terminate parental rights***; or***

(k) That the child has been removed from the biological or legal parents more than two (2) times in a twenty-four (24) month period by the cabinet or a court.

(3) In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:

(a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as defined by KRS 202B.010(9) of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the family;

(c) If the child has been placed with the cabinet, whether the cabinet has, prior to the filing of the petition made reasonable efforts as defined in KRS 620.020 to reunite the child with the parents unless one or more of the circumstances enumerated in KRS 610.127 for not requiring reasonable efforts have been substantiated in a written finding by the District Court;

(d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(4) If the child has been placed with the cabinet, the parent may present testimony concerning the reunification services offered by the cabinet and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent.

(5) If the parent proves by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent the court in its discretion may determine not to terminate parental rights.

(6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision as to each parent-respondent within thirty (30) days either:

(a) Terminating the right of the parent; or

(b) Dismissing the petition and stating whether the child shall be returned to the parent or shall remain in the custody of the state.

Signed by Governor March 26, 2019.

CHAPTER 133

(HB 444)

AN ACT relating to locally operated area technology centers and making an appropriation therefor.

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

➔Section 1. KRS 157.069 is amended to read as follows:

(1) As used in this section:

(a) "Secondary area technology center" or "secondary area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated; and

(b) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.

(2) The Kentucky Department of Education shall distribute all general funds designated for locally operated secondary area centers and vocational departments, which have been receiving state supplemental funds prior to June 21, 2001, by a weighted formula, specified in an administrative regulation promulgated by the

Kentucky Board of Education. The formula shall take into account the differences in cost of operating specific programs. The commissioner of education shall determine programs to be assigned to categories based on the descriptions found in paragraphs (a) to (c) of this subsection. Programs in Categories III and II shall be eligible for funding.

(a) Category III--High-cost technical programs: Programs in which students develop highly technical skills in specific occupational areas and that require high-cost equipment, materials, and facilities. This category may include selected industrial technology Level III programs as defined by the Department of Education and programs in other occupational areas as deemed appropriate;

(b) Category II--Technical skill programs: Programs in which students develop technical skills focused in occupational areas and that require technical equipment but high-cost equipment, facilities, or materials are not necessary to operate the programs. This category may include selected industrial technology Level III programs as defined by the Department of Education and programs in other occupational areas as deemed appropriate; and

(c) Category I--Orientation and career exploration programs: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and develop some exploratory or hands-on skills used in the industry.

Notwithstanding paragraphs (a) and (b) of subsection (1) of this section, the Department of Education shall approve the combining of eligible secondary vocational programs into a single vocational department for purposes of funding for a school district that has been receiving state supplemental funds and has distributed its vocational programs, previously located in area centers, among magnet career academies.

(3) For calculation purposes and after categorizing the programs as described in subsection (2) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky Program, which shall be applied to full-time equivalent students in Categories II and III. Category I programs shall receive no weight. The full-time equivalent students shall be calculated on the basis of the total program enrollment divided by the length of the class period divided by six (6).

(4) (a) If a school district has a locally operated secondary area center that has been receiving state supplemental funds, and the district moves the center as part of a collaborative project agreement between two (2) or more school districts, then the Kentucky Department of Education may, subject to approval by the commissioner of education, distribute the general funds designated for the district's locally operated secondary area center to the district for the purpose of supporting the collaborative project for the district's full-time equivalent students in Category II and III programs.

(b) If the commissioner of education approves the distribution of funds under paragraph (a) of this subsection:

1. For the first year of the collaborative project agreement, the department shall distribute an amount equal to the final allotted amount of general funds from the prior fiscal year designated for the district's locally operated secondary area center; and

2. For any successive year of the collaborative project agreement, the department shall calculate the amount of general funds to distribute pursuant to subsections (2) and (3) of this section. The amount distributed shall not exceed the amount distributed under subparagraph 1. of this paragraph.

Signed by Governor March 26, 2019.

CHAPTER 134

(HB 439)

AN ACT relating to human immunodeficiency virus.

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

➔Section 1. KRS 214.181 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that knowledge of HIV status is increasingly important for all persons since treatment using antiretroviral medications can slow disease progression, prolong and improve the lives of HIV-positive individuals, and reduce the likelihood of perinatal mother-to-child transmission. Many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor or advanced practice registered nurse orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(d) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician or advanced practice registered nurse who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, ***or designee,*** shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician or advanced practice registered nurse ***or designee,*** shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) 1. Nothing in this subsection shall be construed as prohibiting the disclosure to the patient of preliminary positive results from HIV rapid tests if results are delivered with an explanation of the following:

a. The meaning of a reactive rapid test;

b. The importance of confirmatory testing; and

c. The importance of taking precautions to reduce the risk of infecting others while awaiting the results of confirmatory testing.

2. In special cases where immediate actions may be necessary to protect a patient, such as potential perinatal transmission or incidents warranting post-exposure prophylaxis, a preliminary positive result from a HIV rapid test may be disclosed to the patient and used as a basis to recommend options for prophylaxis or treatment.

(d) No person who has obtained or has knowledge of a test result pursuant to this section shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health-care provider which procures, processes, distributes, or uses:

   a. A human body part from a deceased person, with respect to medical information regarding that person; or

   b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A person allowed access by a court order that is issued in compliance with the following provisions:

   a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human-immunodeficiency-virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

   b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

   c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party;

   d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

   e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing that includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health and Family Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 212. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test.

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the name and other information specified under KRS 214.645 shall be reported to the cabinet. The cabinet shall continue to provide for anonymous testing and counseling.

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other private or public facility shall be established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet; and

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he

or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

➔Section 2. KRS 214.625 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that ***antiretroviral therapy (ART)*** ~~[zidovudine (AZT)]~~ prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor or advanced practice registered nurse orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician or advanced practice registered nurse who orders the test pursuant to subsections (1) and (2) of this section, ***his or her designee,*** or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician or advanced practice registered nurse***, or his or her designee,*** shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person who has obtained or has knowledge of a test result pursuant to this section shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health-care provider which procures, processes, distributes, or uses:

   a. A human body part from a deceased person, with respect to medical information regarding that person; or

   b. Semen provided prior to July 13, 1990, for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a person specified in KRS 438.250;

10. A person allowed access by a court order which is issued in compliance with the following provisions:

   a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

   b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

   c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

   d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice; and

   e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient

for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health and Family Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test.

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the name and other information specified in KRS 214.645 shall be reported to the cabinet. The cabinet shall continue to provide for anonymous testing and counseling.

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet; and

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

➔Section 3. KRS 214.645 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall establish a system for reporting, by the use of the person's name, of all persons who test positive for the human immunodeficiency virus (HIV) infection. The reporting shall include the data including, but not limited to, CD4 count and viral load, and other information that are necessary to comply with the confidentiality and reporting requirements of the most recent edition of the Centers for Disease Control and Prevention's (CDC) Guidelines for National Human Immunodeficiency Virus Case Surveillance. ~~[As recommended by the CDC,]~~Anonymous testing shall remain as an alternative. If less restrictive data identifying requirements are identified by the CDC, the cabinet shall evaluate the new requirements for implementation.

(2) The reporting system established under subsection (1) of this section shall:

(a) Use the same confidential name-based approach for HIV surveillance that is used for AIDS surveillance by the cabinet;

(b) Attempt to identify all modes of HIV transmission, unusual clinical or virologic manifestations, and other cases of public health importance;

(c) Require collection of the names and data from all private and public sources of HIV-related testing and care services; and

(d) Use reporting methods that match the CDC's standards for completeness, timeliness, and accuracy, and follow up, as necessary, with the health care provider ***or the provider's designee*** making the report to verify completeness, timeliness, and accuracy.

(3) Authorized surveillance staff designated by the cabinet shall:

(a) Match the information from the reporting system to other public health databases, wherever possible, to limit duplication and to better quantify the extent of HIV infection in the Commonwealth;

(b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure that the assessment is available for review by the public and any state or federal agency, and forward a copy of the assessment to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare;

(c) Document the security policies and procedures and insure their availability for review by the public or any state or federal agency;

(d) Minimize storage and retention of unnecessary paper or electronic reports and insure that related policies are consistent with CDC technical guidelines;

(e) Assure that electronic transfer of data is protected by encryption during transfer;

(f) Provide that records be stored in a physically secluded area and protected by coded passwords and computer encryption;

(g) Restrict access to data a minimum number of authorized surveillance staff who are designated by a responsible authorizing official, who have been trained in confidentiality procedures, and who are aware of penalties for unauthorized disclosure of surveillance information;

(h) Require that any other public health program that receives data has appropriate security and confidentiality protections and penalties;

(i) Restrict use of data, from which identifying information has been removed, to cabinet-approved research, and require all persons with this use to sign confidentiality statements;

(j) Prohibit release of any names or any other identifying information that may have been received in a report to any person or organization, whether public or private, except in compliance with federal law or consultations with other state surveillance programs and reporting sources. Under no circumstances shall a name or any identifying information be reported to the CDC; and

(k) Immediately investigate any report of breach of reporting, surveillance, or confidentiality policy, report the breach to the CDC, develop recommendations for improvements in security measure, and take appropriate disciplinary action for any documented breach.

(4) The cabinet shall require any physician, advanced practice registered nurse, ***designee,*** or medical laboratory that receives a report of a positive test for the human immunodeficiency virus to report that information by reference to the name in accordance with the procedure for establishing name reporting required by the cabinet in an administrative regulation.

Signed by Governor March 26, 2019.

CHAPTER 135

(HB 436)

AN ACT relating to professions licensed by the Real Estate Authority.

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

➔Section 1. KRS 324.085 is amended to read as follows:

(1) ***(a)*** All actively licensed agents***,*** except those licensees exempt under KRS 324.046(5) ***and those licensees satisfying the educational requirement in subsection (2) of this section***, shall successfully complete ***twelve (12)*** ~~[six (6)]~~ classroom or online hours of continuing education ***for the biennial license period*** ~~[each year]~~. ***Six (6) of the twelve (12) hours shall be completed in the first year of the biennial license period or the license shall be automatically cancelled.***

(b) ***Six (6)*** ~~[Three (3)]~~ of the ***twelve (12)*** ~~[six (6)]~~ hours ***of continuing education*** shall be in real estate law.

(c) ***A licensee may accumulate additional continuing education hours for the biennial period in the first year of the biennial term.***

(d) ***Six (6) of the twelve (12) hours of continuing education may be in real estate-related courses approved by the commission and other real property boards pursuant to KRS Chapters 324A and 330 and KRS 198B.700 to 198B.738.***

(2) A licensee who is issued an initial sales associate license after January 1, 2016, shall complete forty-eight (48) classroom or online hours of commission-approved post-license education:

(a) Provided by one (1) or a combination of the following:

1. An accredited institution; or

2. A commission-approved:

a. Real estate school; or

b. Broker-affiliated training program; and

(b) Within two (2) years of receiving or activating his or her license unless extended by the commission for good cause shown.

(3) The license held by any licensee failing to complete his or her sales associate post-license education requirements in accordance with subsection (2) of this section shall be automatically canceled, in accordance with administrative regulations establishing compliance and delinquency procedures.

(4) The commission shall promulgate administrative regulations to establish procedures for implementing the requirements in this section.

(5) In order to qualify to teach continuing education or post-license courses, all continuing education and post-license instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.

➔Section 2. KRS 324.090 is amended to read as follows:

(1) Licenses shall expire ***biennially*** ~~[annually]~~ and shall be renewed ***every two (2) years*** ~~[each year]~~ on the date determined by the commission by administrative regulation. The commission shall renew a license for ***two (2) years*** ~~[each ensuing year]~~, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and payment of the ***biennial*** ~~[annual]~~ fees required. A new license shall be mailed only if the licensee's name, address, status, or affiliation changes.

(2) A fine not to exceed two hundred dollars ($200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time nor shall failure of the mail.

(3) Any license not renewed at the end of the ***biennial license period*** ~~[renewal year]~~ as prescribed by the commission shall automatically revert to expired status. An expired license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

➔Section 3. KRS 324.281 is amended to read as follows:

(1) There is hereby created the Kentucky Real Estate Commission. The Governor shall appoint ***seven (7)*** ~~[five (5)]~~ persons, at least ***six (6)*** ~~[four (4)]~~ of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the commission shall be for three (3) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section. A majority of the commission shall constitute a quorum for the transaction of business.

(2) All appointments shall be for the specified three (3) year term. No person appointed after July 14, 2000, shall serve more than two (2) consecutive terms.

(3) For each appointment or vacancy, the Kentucky Association of Realtors shall within sixty (60) days supply a list of not less than three (3) names of licensees to the Governor each year from which the broker or sales associate appointments shall be made. The Governor may reject the list of three (3) names and request that the Kentucky Association of Realtors submit a new list of three (3) names within sixty (60) days of the Governor's request. If the Kentucky Association of Realtors fails to timely submit this list to the Governor, the Governor may immediately appoint a qualified person to fill this vacancy. The Governor may otherwise fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.

(4) There shall not be more than ***four (4)*** ~~[three (3)]~~ members of any one (1) political party serving on the commission at the same time. No member of the commission shall reside in the same county as another member. Appointees to fill vacancies shall be appointed for the unexpired term.

(5) It shall be the duty of the commission to:

(a) Promulgate administrative regulations, with the approval of the executive director of the Kentucky Real Estate Authority;

(b) Hold disciplinary hearings concerning matters in controversy as provided by this chapter;

(c) Conduct examinations for applicants eligible under this chapter or alternatively to contract with an entity to conduct examinations;

(d) Conduct necessary educational seminars and courses directed toward continuing education within the real estate field;

(e) Investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized administrative regulations of the commission; and

(f) Participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes or administrative regulations governing this commission.

Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

(6) The commission, at its discretion, may use the funds necessary to purchase liability insurance for members and executive officers of the commission, inspectors, and for members of the staff exempted from classified service of the state by KRS 18A.115.

(7) The commission shall require all actively-licensed agents, except for those agents who were licensed prior to June 19, 1976, to successfully complete mandatory continuing education as a condition of license renewal.

(8) The commission shall, by the promulgation of administrative regulations, develop a review process by which continuing education courses may be approved for credit. An applicant may seek the commission's approval for credit for courses not previously approved by the commission by submitting sufficient information describing the course to the commission for review.

(9) The Governor shall set the compensation of the members of the commission, but voting members of the commission shall be compensated no less than three hundred dollars ($300) per day for official business, subject to an annual maximum of six thousand dollars ($6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing, commission members and commission staff may attend and travel to and from meetings and events relevant to the commission or to the industry the commission represents.

➔Section 4. KRS 324.287 is amended to read as follows:

The commission shall set, charge, and collect the following fees:

(1) Examination fee, not to exceed one hundred dollars ($100)***;***~~[.]~~

(2) Broker's and sales associate's original ***biennial*** license fee, not to exceed ***sixty dollars ($60);***~~[thirty dollars ($30).]~~

(3) Broker's and sales associate's ***biennial*** renewal fee, not to exceed ***sixty dollars ($60);***~~[thirty dollars ($30).]~~

(4) ***(a)*** Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

(b) If the transfer is initiated by the principal broker for twenty (20) or more licensees, the transfer fee shall not exceed two hundred dollars ($200);

(5) ***Reactivation fee, not to exceed ten dollars ($10);***

(6) Certification of status with the commission, ten dollars ($10)***;***~~[.]~~

(7)~~[(6)]~~ Request for any change, not to exceed ten dollars ($10)***;***~~[.]~~

(8)~~[(7)]~~ ***Biennial recovery fund fee***~~[Recovery fund]~~, not to exceed ***sixty dollars ($60);***~~[thirty dollars ($30).]~~

(9)~~[(8)]~~ ***Prelicensing education course review fee, not to exceed two hundred dollars ($200);***

(10) Continuing and postlicensing education course review fee, not to exceed fifty dollars ($50); and

(11) Distance education course review fee, not to exceed seventy-five dollars ($75)~~[Broker's and associate's applicant license criminal record check fee, not to exceed thirty dollars ($30)]~~.

➔Section 5. KRS 324.310 is amended to read as follows:

(1) If any sales associate is discharged or terminates his or her association with the principal broker, it shall be the duty of the broker to immediately deliver or mail to the commission the sales associate's license in a manner that complies with KRS 324.312, along with the release statement signed by the principal broker. The broker shall, at the time of mailing the sales associate's license to the commission, address a communication to the last known residence address of the sales associate, which shall advise the sales associate that his or her license has been delivered or mailed to the commission. A copy of the communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either directly or indirectly under authority of the sales associate's license from and after the date of receipt of the license from the broker by the commission.

(2) A licensee may place his or her license in ***inactive status***~~[escrow]~~ with the commission provided that:

(a) The licensee does not engage in any real estate activity for others during the term of ***inactive status***~~[escrow]~~ of the license;~~[and]~~

(b) The licensee pays the ***biennial***~~[annual]~~ license renewal fees for each ***biennial renewal period***~~[year]~~ the license is in ***inactive status; and***~~[escrow]~~

(c) The licensee obtains extended reporting period coverage insurance for one (1) year at the current minimum requirements then in effect prior to entering inactive status.

(3) At the request of the licensee, ***after complying with subsection (4) of this section and*** upon the meeting of requirements applicable to active licensees***, the commission shall reactivate a license placed in inactive status, in the absence of any reason or condition which might warrant the refusal of the granting of a license***~~[and completion of all continuing education requirements, a license placed in escrow shall be automatically converted to an active license upon payment of the established change fee]~~.

(4) To reactivate a license, a licensee shall:

(a) Submit an acceptable criminal record check consistent with KRS 324.045(4);

(b) Complete all continuing education requirements required by the commission; and

(c) Pay the applicable reactivation fees.

➔Section 6. KRS 324.330 is amended to read as follows:

(1) Notice in writing shall be given to the commission by each licensee of any change of principal business location, a change of firm name, sales associate's transfer from one (1) principal broker to another, or a change of surname. The commission shall issue a new license for the unexpired period and shall charge the fee as provided in KRS 324.287***(7)***~~[(6)]~~ for effecting the change on its records. This section shall apply to both brokers and sales associates.

(2) The commission shall be notified in writing of a change of a residence address within ten (10) days.

(3) A fee shall be assessed for certification of a licensee's status with the commission.

(4) The commission shall, by the promulgation of administrative regulations, require all licensees to file with the commission, at ***biennial***~~[annual]~~ renewal, their telephone numbers and, if applicable, their electronic mail addresses.

➔Section 7. KRS 324.395 is amended to read as follows:

(1) All real estate licensees, except those whose licenses are in ***inactive status***~~[escrow]~~ in accordance with KRS 324.310(2), shall carry errors and omissions insurance to cover all activities contemplated under this chapter. ***Inactive licensees shall obtain extended reporting period coverage insurance for one (1) year at the current minimum requirements then in effect prior to entering inactive status.***

(2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.

(3) Any policy obtained by the commission shall be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

(4) Licensees shall have the option of obtaining ***the required***~~[errors and omissions]~~ insurance independently, if the coverage contained in the policy and the financial condition of the insurance company complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.

(6) Each licensee shall be notified of the required terms and conditions of coverage for the ***biennial***~~[annual]~~ policy at least thirty (30) days prior to the ***biennial***~~[annual]~~ license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission by the ***biennial***~~[annual]~~ license renewal date by each licensee who opts not to participate in the group insurance program administered by the commission.

(7) If the commission is unable to obtain ***the***~~[errors and omissions]~~ insurance coverage ***required by subsection (1) of this section*** to insure all licensees who choose to participate in the group insurance program at a reasonable annual premium, not to exceed two hundred dollars ($200) ***per year for required insurance coverage and not to exceed two hundred dollars ($200) per year for extended reporting period coverage***, ***then*** the insurance requirement mandated by this section shall be void during the applicable contract year.

➔Section 8. KRS 324.400 is amended to read as follows:

(1) There is hereby created and established in the State Treasury the real estate education, research, and recovery fund.

(2) In addition to the license fees provided for in KRS 324.287, upon renewal of every broker's and sales associate's license, as well as any and all other types of licenses, if any, issued by the commission, as of June 30, 1972, and every regular ***biennial***~~[annual]~~ renewal date thereafter, the commission shall charge each of the aforesaid licensees an amount not to exceed ***sixty dollars ($60)***~~[thirty dollars ($30)]~~ per year to be included in the real estate education, research, and recovery fund. Each and every original applicant for a license after July 1, 1972, shall likewise submit to the commission an additional fee ***not to exceed sixty dollars ($60)***~~[of thirty dollars ($30)]~~ to be deposited in the real estate education, research, and recovery fund and shall also be subjected thereafter to ***a biennial***~~[an annual]~~ renewal fee as of the regular renewal period.

~~[(3) In addition to the license fees provided for in KRS 324.287, the commission, based upon its own discretion as to need, may assess each licensee upon renewal an amount less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant must pay the original amount of thirty dollars ($30), but on renewal will be subjected to the same renewal amount as other licensees.]~~

➔Section 9. KRS 324.420 is amended to read as follows:

(1) An aggrieved party may commence an administrative action which may result in collection from the recovery fund by first filing a complaint with the commission on a form prepared by the commission. The complaint shall constitute a prima facie case that a licensee is in violation of KRS 324.160 and is subject to the same conditions set forth in KRS 324.150. If the complaint constitutes a prima facie case and the matter is not settled, the commission shall hold a hearing pursuant to the requirements set forth in the provisions of this chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact occurred. If a violation of fraud is so found, the commission shall determine if the violation resulted in damages to complainant and in what amount. If damages cannot be accurately determined, then the amount of damages shall be determined by a Circuit Court in the county where the violation took place. In the event the question of damages is referred to the Circuit Court, the decision of the commission will not be final and appealable until the question of damages is certifiable.

(2) Upon final order by the commission or upon certification to the commission by the Circuit Court on the issue of damages, and after the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order, the aggrieved party or parties shall be paid the amount or amounts by the commission from the recovery fund.

(3) The license of the licensee against whom the claim was made by the aggrieved party shall be suspended or may be permanently revoked until such time as the licensee has reimbursed the recovery fund in full for all amounts paid, plus interest at the rate of ten percent (10%) per annum.

(4) Any party aggrieved by a final order of the commission may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B.

(5) Upon the final order of the court, and after the commission has paid from the real estate education, research, and recovery fund any sum to the aggrieved party, the commission shall be subrogated to all of the rights of the aggrieved party to the extent of the payment. The aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission. After such assignment, the commission may challenge in bankruptcy court any attempt by a former licensee to discharge the debt, if proper notice is given. Any funds recovered by the commission shall be deposited in the real estate education, research, and recovery fund.

(6) No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund unless the action against the licensee is commenced within ***one (1) year***~~[two (2) years]~~ from actual knowledge of the cause of action or from the time when circumstances should reasonably have put the aggrieved party on notice of the cause of action.

(7) An aggrieved party shall not be entitled to recover compensation from the real estate education, research, and recovery fund, unless the compensation is for the actual financial harm suffered by the aggrieved party, and this financial harm is specifically and directly related to the property.

(8) For purposes of this section, an "aggrieved party" shall mean either:

(a) A member of the consumer public who stands in a direct relationship to the licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting, or otherwise securing an interest in real estate through a licensee and who believes that the licensee is in violation of the provisions of this chapter; or

(b) A member of the consumer public who directly engages the services of a licensee for purposes of selling, leasing, renting, or otherwise dealing in his or her own property.

(9) If at any time the money on deposit in the real estate education, research and recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.

(10) Any funds in excess of the four hundred thousand dollar ($400,000) level which are not being currently used, may be invested and reinvested as set forth in subsection (2) of KRS 324.410.

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

(1) The following actions shall be commenced within one (1) year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice, or servant;

(b) An action for injuries to persons, cattle, or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216;

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage;

(d) An action for libel or slander;

(e) An action against a physician, surgeon, dentist, or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice;

(f) A civil action, arising out of any act or omission in rendering, or failing to render, professional services for others, whether brought in tort or contract, against a real estate appraiser holding a certificate or license issued under KRS Chapter 324A ***or a real estate broker or sales associate holding a license issued under KRS Chapter 324***;

(g) An action for the escape of a prisoner, arrested or imprisoned on civil process;

(h) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either;

(i) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession;

(j) An action for the recovery of damages or the value of stolen property, against the thief or any accessory;

(k) An action arising out of a detention facility disciplinary proceeding, whether based upon state or federal law;

(l) An action for damages arising out of a deficiency, defect, omission, error, or miscalculation in any survey or plat, whether brought in tort or contract, against a licensed professional land surveyor holding a license under KRS Chapter 322; and

(m) An action for violating KRS 311.782.

(2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.

(3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this section, the cause of action shall be deemed to accrue within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured.

(4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(6) In respect to the action referred to in paragraph (j) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

(7) In respect to the action referred to in paragraph (k) of subsection (1) of this section, the cause of action shall be deemed to accrue on the date an appeal of the disciplinary proceeding is decided by the institutional warden.

(8) In respect to the action referred to in subsection (1)(m) of this section, the cause of action shall be deemed to accrue after the performance or inducement or attempt to perform or induce the abortion.

➔Section 11. The following KRS section is repealed:

324A.060 Goods and services -- Administrative coordinator.

➔Section 12. Sections 1, 2, and 4 of this Act shall be effective January 1, 2020.

Signed by Governor March 26, 2019.

CHAPTER 136

(HB 132)

AN ACT relating to violent offenders.

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

➔Section 1. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:

(a) A capital offense;

(b) A Class A felony;

(c) A Class B felony involving the death of the victim or serious physical injury to a victim;

(d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer,~~[or]~~ firefighter***, or emergency medical services personnel*** while the ***peace*** officer,~~[or]~~ firefighter***, or emergency medical services personnel*** was acting in the line of duty;

(e) A Class B felony involving criminal attempt to commit murder under KRS 506.010 if the victim of the offense is a clearly identifiable peace officer,~~[or]~~ firefighter***, or emergency medical services personnel*** acting in the line of duty, regardless of whether an injury results;

(f) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;

(g) Use of a minor in a sexual performance as described in KRS 531.310;

(h) Promoting a sexual performance by a minor as described in KRS 531.320;

(i) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);

(j) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;

(k) Criminal abuse in the first degree as described in KRS 508.100;

(l) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;

(m) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or

(n) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer**,**~~[or]~~ a firefighter***, or emergency medical services personnel,*** and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.

(c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer**,**~~[or]~~ a firefighter***, or emergency medical services personnel,*** and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.

(d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.

(4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

(8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

Signed by Governor March 26, 2019.

CHAPTER 137

(HB 189)

AN ACT relating to parole violators.

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

➔Section 1. KRS 439.3106 is amended to read as follows:

(1) Supervised individuals shall be subject to:

(a) ~~[(1)]~~ Violation revocation proceedings and possible incarceration for failure to comply with the conditions of supervision when such failure constitutes a significant risk to prior victims of the supervised individual or the community at large, and cannot be appropriately managed in the community; or

(b) ~~[(2)]~~ Sanctions other than revocation and incarceration as appropriate to the severity of the violation behavior, the risk of future criminal behavior by the offender, and the need for, and availability of, interventions which may assist the offender to remain compliant and crime-free in the community.

(2) (a) At a final revocation hearing, the board may subject a supervised individual to a supervision continuation sanction for a period of up to nine (9) months, or until the completion of the individual's sentence, whichever is shorter.

(b) Individuals under a supervision continuation sanction shall be placed in:

1. A state or local correctional or detention facility;

2. An inpatient program for substance abuse treatment which has been approved by the department; or

3. Notwithstanding KRS 532.100, a halfway house, when the individuals have been classified by the department as community custody.

(c) Individuals under a supervision continuation sanction shall be considered an inmate for the duration of the supervision continuation sanction period. If an individual under a supervision continuation sanction successfully completes the sanction and has not completed the individual's sentence, the individual shall then be considered a supervised individual.

(d) 1. When a supervised individual has successfully completed the supervision continuation sanction and has not completed the individual's sentence, the individual shall be:

a. Reinstated to supervision in the community without another hearing before the board; and

b. Subject to the same supervision conditions that the individual had been under at the time of the preliminary revocation hearing.

2. When a supervised individual does not successfully complete a supervision continuation sanction and has not completed the individual's sentence, the individual shall be returned to the board for revocation proceedings.

➔Section 2. KRS 439.348 is amended to read as follows:

Paroled prisoners shall be under the supervision of the department and subject to its direction for the duration of parole. Supervision of the parolee by the department shall cease at the time***:***

(1) Of recommitment of the prisoner to prison as a parole violator***, including recommitment under a supervision continuation sanction, at which time the prisoner shall be considered an inmate;*** ~~[,]~~ or

(2) ~~[at the time]~~A final discharge from parole is granted to the parolee by the board.

Signed by Governor March 26, 2019.

CHAPTER 138

(HB 181)

AN ACT relating to proprietary education.

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

➔Section 1. KRS 165A.310 is amended to read as follows:

As used in this chapter:

(1) "Agent" means any person employed by a proprietary school to act as agent, solicitor, broker, or independent contractor to procure students for the school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school;

(2) "CDL" means a commercial driver's license as defined in KRS 281A.010;

(3) "CDL driver training" means a course of study that complies with the provisions of KRS 332.095 governing the instruction of persons in the operation of commercial motor vehicles;

(4) "CDL driver training school" means any person, firm, partnership, association, educational institution, establishment, agency, organization, or corporation that offers CDL driver training to persons desiring to obtain a Kentucky CDL in order to operate a commercial motor vehicle and for which a fee or tuition is charged;

(5) "Commercial motor vehicle" has the same meaning as in KRS 281A.010;

(6) "Commission" means the Kentucky Commission on Proprietary Education;

(7) "Formal complaint" means a written statement filed on a form specified by the commission in which the complainant alleges that a school has violated a Kentucky statute or administrative regulation and has negatively impacted the complainant, and resolution is requested by the commission;

(8) "License" means authorization issued by the commission to operate or to contract to operate a proprietary school in Kentucky as described in this chapter and does not reflect accreditation, supervision, endorsement, or recommendation by the commission;

(9) "Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

(10) "Proprietary school" or "school" means a privately owned~~[for-profit]~~ educational institution, establishment, agency, organization, or person ***maintained on either a for-profit or not-for-profit basis*** offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method, and does not include:

(a) A school or educational institution supported entirely or partly by taxation from either a local or state source;

(b) A parochial, denominational, or eleemosynary school or institution;

(c) A training program which offers instruction for payment by participants primarily in pursuit of a hobby, recreation, or entertainment, and does not result in the granting of postsecondary credits nor lead to an industry-recognized credential, academic certificate, or degree;

(d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee; or

(e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Cosmetology established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, the Kentucky Board of Embalmers and Funeral Directors established by KRS 316.170, or the Kentucky Council on Postsecondary Education established by KRS 164.011;

(11) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement;

(12) "School year" is beginning the first day of July and ending the thirtieth day of June next following, except when approval shall be suspended or canceled pursuant to KRS 165A.350; and

(13) "Statement of quality assurance" means a statement required by the commission from a non-degree granting institution, in a form and manner determined by the commission, that attests to the institution meeting the minimum standards required for receiving and maintaining a license.

➔Section 2. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year bachelor's degree recognized by the Council on Postsecondary Education, nor shall it apply to any religious~~[or nonprofit]~~ institution exempt from

taxation under the laws of this state or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate for-profit ***and not-for-profit*** proprietary schools, including but not limited to traditional, Web-based, distance learning, or correspondence schools, which are operated as or are organized for ***a*** profit, ***or on a not-for-profit basis***~~[whether profit is ever realized]~~.

➔Section 3. KRS 165A.340 is amended to read as follows:

(1) The Kentucky Commission on Proprietary Education is hereby created as an independent agency of the Commonwealth and shall be attached to the Education and Workforce Development Cabinet for administrative purposes. The commission shall be composed of the following members:

(a) Two (2) members who are representative of privately owned~~[for profit]~~ postsecondary educational institutions licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;

(b) Two (2) members who are representative of privately owned~~[for profit]~~ postsecondary technical schools licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;

(c) Four (4) members who are representative of the public at large with a background in education, business, or industry in Kentucky and appointed by the Governor;

(d) The secretary of the Education and Workforce Development Cabinet, or the secretary's designee;

(e) The president of the Council on Postsecondary Education, or the president's designee; and

(f) The commissioner of education, or the commissioner's designee.

(2) ~~[Initial]~~Terms of appointed members shall be~~[staggered by the Governor. Thereafter, terms shall be]~~ four (4) years or until successors are duly appointed and qualified. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment. An appointed member shall not serve more than two (2) consecutive full terms, except that a member may be reappointed after a break in service of one (1) full term.

(3) The commission shall employ and fix the compensation of an executive director, who shall be its secretary and principal executive officer. The executive director shall have a background in the regulation of commerce, business, or education, and shall be responsible for:

(a) Organizing and staffing meetings of the commission;

(b) Establishing policies to ensure retention of original licensing documentation;

(c) Ensuring that minutes and other financial, procedural, complaint, and operational records are securely maintained and archived;

(d) Internal and external correspondence and communication;

(e) Submitting reports and strategic agenda items for review and approval;

(f) Assisting the commission in the promulgation of administrative regulations;

(g) Carrying out policy and program directives of the commission;

(h) Preparing budget submissions;

(i) Ensuring that formal complaints are provided to the complaint committee and arranging for independent investigations as needed;

(j) Ensuring that an independent audit of the commission's finances is conducted biennially;

(k) Ensuring that formal written agreements are executed for the procurement of administrative and legal services;

(l) Formalizing office policies and procedures relating to licensing and financial operations;

(m) Developing and implementing a process for monitoring expenditures and reconciling on a monthly basis commission and student protection fund receipts reported in the Enhanced Management Administrative Reporting System (EMARS); and

(n) Other activities necessary to ensure that the commission meets its designated duties and responsibilities.

(4) The commission shall have full authority to employ and fix the compensation for any personnel, including counsel, as it may deem necessary to effectively administer and enforce the provisions of this chapter. The commission shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.

(5) The commission shall annually elect a chairperson. The chairperson shall not be a school representative appointed pursuant to subsection (1)(a) or (b) of this section.

(6) (a) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:

1. Commission operating and accountability procedures;

2. Requirements for each licensed institution to publicly disclose according to standardized protocols, both in print and Web-based materials, information about:

a. Any information that the schools are required to report by the federal Higher Education Opportunity Act, Pub. L. No. 110-315, using the Integrated Postsecondary Education Data System (IPEDS) of the National Center for Educational Statistics as a condition of participating in Title IV federal financial aid programs;

b. The job placement rate of program graduates in the field of study and the types of jobs for which graduates are eligible;

c. Articulation agreements with other postsecondary educational institutions and the rights and responsibilities of students regarding transfer of credits;

d. The complaint procedures available to students; and

e. The existence of the student protection fund created in KRS 165A.450, and procedures for students to file a claim, including but not limited to the documentation required for submission of a claim;

3. Quality standards and compliance monitoring schedules of traditional programs, correspondence courses, and Web-based, distance learning courses offered over the Internet;

4. Advertising requirements for schools issued a license, including no distribution of materials containing untrue, deceptive, or misleading statements and no representation that the commission is an accrediting agency for the school or its programs;

5. A schedule for reviewing advertisements and recruitment materials and practices of member institutions to ensure compliance with this chapter;

6. An equitable structure of licensure and renewal fees, to be paid by licensed schools, necessary to carry out the provisions and purposes of this chapter and to support adequate staffing of commission responsibilities. The fee structure shall be based on the gross revenue of licensed schools, number of students enrolled, and whether the school is located within the state or outside the state; and

7. The method for calculating placement rates that are to be disclosed pursuant to this subsection.

(b) The commission shall have the authority to promulgate other administrative regulations, in cooperation with the Kentucky Department of Education and the Council on Postsecondary Education, as it deems necessary for the proper administration of this chapter.

(7) The commission shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places within this state as the commission may designate. The majority of the members shall constitute a quorum, and all meetings shall be conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.

(8) The commission may sue and be sued in its own name.

(9) Commission members shall receive a per diem of one hundred dollars ($100) for attendance at each commission meeting and may be reimbursed for ordinary travel and other expenses while engaged in the business of the commission.

(10) The commission shall administer and enforce the provisions of this chapter pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.

(11) The commission shall have the power to subpoena witnesses and school records as it deems necessary.

(12) The commission chairperson shall appoint a complaint committee and designate its chairperson. The chairperson of the complaint committee shall not be employed by, have ownership interest in, or be otherwise affiliated with a licensed institution. School representatives appointed pursuant to subsection (1)(a) or (b) of this section shall not constitute a majority of the committee's membership. A committee member shall not vote on a matter in which a conflict of interest exists. The committee shall review each formal complaint and, if evidence supports an alleged violation of this chapter or any administrative regulation promulgated thereunder, the committee shall:

(a) Authorize an investigative report;

(b) Participate in informal procedures to resolve complaints;

(c) Ensure timely correspondence to parties involved in complaints; and

(d) After review of all evidence and investigative reports, make recommendations for the disposition of complaints to the full commission.

(13) No later than November 30, 2013, and annually thereafter, the commission shall provide a status report on the requirements of this section to the Interim Joint Committee on Licensing and Occupations and the Interim Joint Committee on Education. The report shall include a summary of the data, including school performance information, relating to the requirements of subsection (6)(a) of this section.

➔Section 4. KRS 165A.350 is amended to read as follows:

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless the school shall have been issued by the commission a license pursuant to KRS 165A.310 to 165A.410 and the person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the commission.

(3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the commission, and unless the application shall be accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral ***in a form*** as required by the commission but not less than five thousand dollars ($5,000).

(4) (a) The surety bond or other collateral shall be conditioned by the commission to recover all necessary administrative costs, including but not limited to costs for the acquisition, permanent filing, and maintenance of student records of the proprietary school or to provide indemnification to any student or enrollee or the student's or enrollee's parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school, or as a result of the student being unable to complete the course or courses because the proprietary school ceased operations. The amount of liability on the surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall not exceed the penal sum of the bond. The surety bond ***or other collateral*** may be continuous.

(b) Any claimant may file with the commission a duly verified claim against an agent. The commission shall consider ***claims***~~[complaints]~~ in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to the licensee of the ***claim***~~[complaint]~~ giving time and place of hearing thereon and if the claim is found to be correct and due to the claimant, and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on the bond and the surety ***or other collateral*** thereon, and if not paid shall bring an action on the bond in ***Franklin Circuit Court***~~[any court of record within the State of Kentucky]~~.

(5) The surety bond ***or other collateral*** may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.

(6) A surety on the bond ***or other collateral*** may be released therefrom after the surety shall make a written notice thereof directed to the commission at least thirty (30) days prior to release.

(7) The surety bond ***or other collateral*** shall cover the period of the agent's permit, except when a surety shall be released in the manner provided herein.

(8) Notwithstanding the provisions of other sections, the commission may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no owner shall be required to pay the agent's permit fee or execute an agent's surety bond ***or other collateral*** as otherwise required by this section, if the proprietary school shall have been issued a license pursuant to the provisions of KRS 165A.310 to 165A.410.

(9) The commission may issue a conditional license on a monthly basis for up to a nine (9) month period of time.

(10) An agent's permit shall be suspended by operation of law when the agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the commission shall cause the agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that the permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the commission.

(11) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or canceled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.

(12) The owner or owners of the proprietary school shall be held responsible for all actions of their agents when performing their duties as agents.

➔Section 5. KRS 165A.360 is amended to read as follows:

(1) ***(a)*** No person shall maintain or operate a proprietary school located and doing business within this state until ***the***~~[said]~~ school ***has***~~[shall have been]~~ issued a license by the commission pursuant to the provisions of KRS 165A.310 to 165A.410.

(b) No person shall maintain or operate a proprietary school located without this state and do business within this state until ***the***~~[said]~~ school ***has***~~[shall have]~~ been issued a license by the commission pursuant to the provisions of KRS 165A.310 to 165A.410.

(c) No license shall be issued by the commission to any proprietary school which denies enrollment~~[in said school]~~ to any pupil~~[,]~~ on account of race, color, or creed. The Kentucky Commission on Human Rights shall have ***the*** power ***to investigate***~~[to make investigation as to]~~ discriminatory practices of any proprietary school and shall report~~[thereon]~~ to the commission.~~[, and said commission shall,]~~ Upon ***receipt of a*** report that ***a***~~[any such]~~ school is engaging in discriminatory practices, ***the commission shall*** deny or suspend ***the***~~[a]~~ license of ***the***~~[such]~~ school in accordance with the provisions of this section and after notice and public hearing as required herein.

(2) No proprietary school shall be issued a license unless it ***applies***~~[shall make application]~~, through its officers or an owner, upon forms~~[to be]~~ provided by the commission, and unless the application ***is***~~[shall be]~~ accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral ***in a form approved by the commission,*** in a penal sum of not less than twenty thousand dollars ($20,000).

(3) (a) The surety bond or other collateral shall be conditioned by the commission to recover all necessary administrative costs, including but not limited to costs***:***

1. For the acquisition, permanent filing, and maintenance of student records of the school***;***~~[or]~~

2. To provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the license***;***~~[,]~~ or

3. As a result of the student being unable to complete the course or courses because the school ceased operations.

Such indemnification shall, in no case, exceed the advanced tuition paid or to be paid by ***the***~~[said]~~ student or students or any~~[such]~~ parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond ***or other collateral*** may be continuous.

(b) ***1.*** Any claimant may file with the commission a duly verified claim against a proprietary school.

2. The commission shall consider ***claims***~~[complaints]~~ in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to ***the***~~[such]~~ school ***cited in the claim,***~~[of said complaint]~~ giving ***the*** time and place of ***the*** hearing.~~[thereon and,]~~

3. If ***the***~~[such]~~ claim is found to be correct and due to the claimant***,*** and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on ***the***~~[such]~~ bond ***or other collateral*** and the surety thereon, and if not paid may bring an action on such bond in ***Franklin Circuit Court***~~[any court of record within the State of Kentucky]~~.

(4) A surety on ***the***~~[said]~~ bond ***or other collateral*** may be released ~~[therefrom]~~ after ***the***~~[said]~~ surety ***has***~~[shall have]~~ made a written notice~~[thereof directed]~~ to the commission at least thirty (30) days prior to ***the***~~[said]~~ release.

(5) The surety bond ***or other collateral*** shall cover the period of the license except when ***the***~~[said]~~ surety shall be released in the manner as provided by this section.

(6) (a) The license shall be suspended by operation of law when ***the***~~[said]~~ proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the commission shall cause ***the***~~[said]~~ proprietary school to receive at least ten (10) days' written notice prior to the release of ***the***~~[said]~~ surety to the effect that ***the***~~[said]~~ approval shall be suspended by operation of law until another surety bond ***or other collateral is***~~[shall be]~~ filed in the same manner and like amount as required for the initial surety bond.

(b) The license shall be suspended by operation of law at any time any certified proprietary school ***denies***~~[shall deny]~~ enrollment ~~[in said school]~~ to any pupil, on account of race, color, or creed.

(7) The application for a license shall be accompanied by such supporting documents as the commission may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of ***the***~~[said]~~ proprietary school.

(8) A license shall be valid for a period of one (1) school year. A license may be renewed in the same manner and under the conditions prescribed by the commission.

(9) Licenses are transferable to another owner. If a change of ownership occurs, the new owner shall***,*** within ten (10) days, reexecute and affirm the application for license and the information therein, governing ***the***~~[said]~~ license in effect at the time of sale. The commission may establish a reasonable fee for the recording and processing of such changes.

(10) The bonding or other collateral requirements herein set forth may be reduced at the sole discretion of the commission upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.

(11) (a) Contracts by and between a proprietary school operating or doing business within this state and a student are voidable at the option of the student unless ***the***~~[said]~~ school has been previously issued a license by the commission.

(b) No proprietary school operating or doing business within this state shall be entitled to any money collected from students, in whatever manner collected, unless ***the***~~[said]~~ school has been previously issued a license by the commission.

(c) Contracts by and between a proprietary school operating or doing business within this state which are entered into prior to the issuance of a license by the commission, shall be voidable at the option of the student notwithstanding any subsequent issuance of a license to the school by the commission.

(d) Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the county of the student's residence or other appropriate court, at the option of the student.

Signed by Governor March 26, 2019.

CHAPTER 139

(HB 177)

AN ACT relating to the Geographic Information Advisory Council.

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

➔Section 1. KRS 42.740 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, attached to the Commonwealth Office of Technology for administrative purposes, to advise the executive director of the Commonwealth Office of Technology on issues relating to geographic information and geographic information systems.

(2) The council shall recommend policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to recommend policies and procedures that ensure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-six (26)*** ~~[twenty-four (24)]~~ members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his ***or her*** designee;
2. The secretary of the Cabinet for Health and Family Services or his or her designee;
3. The director of the Kentucky Geological Survey or his ***or her*** designee;
4. The secretary of the Finance and Administration Cabinet or his ***or her*** designee;
5. The executive director of the Commonwealth Office of Technology or her or his designee, who shall serve as chair;
6. The secretary of the Economic Development Cabinet or his ***or her*** designee;
7. The commissioner of the Department for Local Government or his ***or her*** designee;
8. The secretary of the Justice and Public Safety Cabinet or his ***or her*** designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his ***or her*** designee;
11. The commissioner of the Department of Education or his ***or her*** designee;
12. The secretary of the Energy and Environment Cabinet or his ***or her*** designee;
13. The Commissioner of the Department of Agriculture or his ***or her*** designee;
14. The secretary of the Tourism, Arts and Heritage Cabinet or his ***or her*** designee;
15. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
17. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of ***Professional*** ~~[Land]~~ Surveyors;

20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; ~~[and]~~

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts***;***

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Mapping Professionals; and

24. The executive director of the Kentucky Office of Homeland Security.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the board while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Signed by Governor March 26, 2019.

CHAPTER 140

(HB 176)

AN ACT relating to surcharges on insurance policies.

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

➔Section 1. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and ***eighty***~~[fifty]~~ cents ***($1.80)***~~[($1.50)]~~ upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Department of Revenue, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Department of Revenue all premium surcharge moneys collected on a calendar year basis on or before the twentieth day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund, KRS 95A.220 and 95A.262, and the Law Enforcement Foundation Program fund, KRS 15.430.

(b) Effective July 1, ***2019***~~[1992]~~, the surcharge rate in paragraph (a) of this subsection shall ***only*** be adjusted by ***an Act of the General Assembly, and the adjusted rate shall be applied beginning ninety (90) days after the effective date of the Act***~~[the commissioner of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the commissioner of revenue to calculate an appropriate rate, the secretary of the Public Protection Cabinet and the secretary for the Justice and Public Safety Cabinet shall certify to the commissioner of revenue each year the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate. As soon as practical, the commissioner of revenue shall advise the commissioner of insurance of the new rate and the commissioner of insurance shall inform the affected insurers. The new rate shall take effect no earlier than six (6) months from the date that the commissioner of insurance notifies the affected insurers]~~.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from

policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Department of Insurance shall provide the Department of Revenue with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Department of Revenue shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Department of Insurance. The Department of Revenue shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Department of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the Department of Revenue shall not identify or divulge the confidential tax information of any individual insurer in this report.

(5) The insurance premiums surcharge provided in this section shall not apply to premiums collected from the following:

(a) The federal government;

(b) Resident educational and charitable institutions qualifying under Section 501(c)(3) of the Internal Revenue Code;

(c) Resident nonprofit religious institutions for real, tangible, and intangible property coverage only;

(d) State government for coverage of real property; or

(e) Local governments for coverage of real property.

(6) Pursuant to the Non-Admitted and Reinsurance Reform Act of 2010, Title V, Subtitle B, of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, the insurance premium surcharge on non-admitted insurance for multistate risks shall be exempt from the provisions of this section but shall be subject to the provisions of KRS 304.10-180.

Signed by Governor March 26, 2019.

CHAPTER 141

(HB 166)

AN ACT relating to a day of prayer for students.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly recognizes that the students of the Commonwealth are the state's single greatest resource and designates the last Wednesday in September of each year as A Day of Prayer for Kentucky's Students.

(2) The Governor shall annually proclaim the last Wednesday in September as A Day of Prayer for Kentucky's Students and shall call upon the citizens of the state, in accordance with their own faith and consciences, to pray, meditate, or otherwise reflect upon the students of this state as well as their teachers, administrators, and schools.

Signed by Governor March 26, 2019.

CHAPTER 142

(SB 164)

AN ACT relating to the Kentucky Energy Efficiency Program.

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

➔Section 1. The following KRS section is repealed:

160.325 Mandatory participation in Kentucky Energy Efficiency Program.

Signed by Governor March 26, 2019.

CHAPTER 143

(HB 151)

AN ACT relating to insurance fraud.

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

➔Section 1. KRS 304.47-020 is amended to read as follows:

(1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including but not limited to matters relating to workers' compensation:

(a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Kentucky Claims Commission, Special Fund, or any agent thereof:

1. Any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim; or

2. Any statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;

(b) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;

(c) Knowingly and with intent to defraud or deceive:

1. Receives money for the purpose of purchasing insurance, and fails to obtain insurance;

2. Fails to make payment or disposition of money or voucher as defined in KRS 304.17A-750, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;

3. Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:

a. The rating of an insurance policy;

b. The financial condition of an insurer;

c. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or

d. A document filed with the commissioner; or

4. Engages in any of the following:

a. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or

b. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer;

(d) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, insurance binders, or any other documents that purport to evidence insurance;

(e) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;

(f) Engages in unauthorized insurance, as set forth in KRS 304.11-030; or

(g) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.

(2) ~~[(a) Except as provided in paragraphs (b) and (c) of this subsection,]~~A person convicted of a violation of subsection (1) of this section shall be guilty of a ***Class A*** misdemeanor***, unless***~~[where]~~ the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is~~[less than or equal to five hundred dollars ($500), and shall be punished by]~~:

(a) ~~[1.]~~ ***Five hundred dollars ($500) or more but less than ten thousand dollars ($10,000), in which case it is a Class D felony*** ~~[Imprisonment for not more than one (1) year]~~;

(b) ~~[2.]~~ ***Ten thousand dollars ($10,000) or more but less than one million dollars ($1,000,000), in which case it is a Class C felony*** ~~[A fine, per occurrence, of not more than one thousand dollars ($1,000) per individual nor five thousand dollars ($5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater]~~; or

(c) ~~[3.]~~ ***One million dollars ($1,000,000) or more, in which case it is a Class B felony*** ~~[Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph]~~.

(3) ~~[(b)]~~ ***A*** ~~[Except as provided in paragraph (c) of this subsection, where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of five hundred dollars ($500), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:~~

~~1. Imprisonment for not less than one (1) nor more than five (5) years;~~

~~2. A fine, per occurrence, of not more than ten thousand dollars ($10,000) per individual nor one hundred thousand dollars ($100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or~~

~~3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.~~

~~(c) Any]~~ person, with the purpose to establish or maintain a criminal syndicate~~[,]~~ or to facilitate any of its activities,~~[as set forth in KRS 506.120(1),]~~ shall be guilty of engaging in organized crime, a Class B felony, ***if he or she engages in any of the activities set forth in KRS 506.120(1).***

(4) A person convicted of a crime established in this section ~~[and]~~ shall be punished by:

(a) ~~[1.]~~ Imprisonment for ***a term:***

1. Not to exceed the period set forth in KRS 532.090 if the crime is a Class A misdemeanor; or

2. Within the periods set forth in KRS 532.060 if the crime is a Class D, C, or B felony ~~[not less than ten (10) years nor more than twenty (20) years]~~;

(b) ~~[2.]~~ A fine, per occurrence, of***:***

1. For a misdemeanor, not more than one thousand dollars ($1,000) per individual nor five thousand dollars ($5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or

2. For a felony, not more than ten thousand dollars ($10,000) per individual nor one hundred thousand dollars ($100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or

(c) ~~[3.]~~ Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of this paragraph.

(5)~~[(d)]~~ In addition to imprisonment, the assessment of a fine, or both, a person convicted of a ***crime established in***~~[violation of paragraph (a), (b), or (c) of subsection (2) of]~~ this section may be ordered to make restitution to any victim who suffered a monetary loss due to any actions by that person which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.

(6)~~[(3)]~~ Any person damaged as a result of a violation of any provision of this section shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.

(7)~~[(4)]~~ The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection ***(6)***~~[(3)]~~ of this section.

➔Section 2. KRS 304.47-050 is amended to read as follows:

(1) Any person, other than those specified in subsection (2) of this section, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under the subtitle is being or has been committed may send to the division a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.

(2) The following ***persons,***~~[individuals]~~ having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed***,*** shall send to the division a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or the commissioner's employees or agents may require:

(a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;

(b) Any private medical review committee;

(c) Any insurer, agent, or other person licensed under this chapter;~~[and]~~

(d) ***The following Kentucky Boards:***

1. Board of Medical Licensure;

2. Board of Chiropractic Examiners;

3. Board of Nursing;

4. Board of Physical Therapy;

5. Board of Occupational Therapy; and

6. Board for Massage Therapy; and

(e) Any employee of the persons named in paragraphs (a) to ***(d)***~~[(c)]~~ of this subsection.

(3) The division or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the division, may require further investigation. The division shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.

(4) The ***following***~~[Department of Workers' Claims]~~ shall provide the division access to all relevant information the commissioner may request***:***

(a) The Department of Workers' Claims; and

(b) The boards named in subsection (2)(d) of this section.

(5) The division shall report any alleged violations of law which the investigations disclose to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the division of the reasons for the lack of prosecution. In addition to filing a report with the appropriate

prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his or her principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.

(6) Notwithstanding the provisions of subsections (1) to (5) of this section, any person having knowledge or believing that a fraudulent insurance act or any other act that may be prohibited under this subtitle is being or has been committed, may notify any law enforcement agency of his or her knowledge or belief and provide information relevant to the act, as may be requested by that agency, including, but not limited to, insurance policy information including the application for insurance, policy premium payment records, history of previous claims made by the insured, and other information relating to the investigation of the claim, including statements of any person, proofs of loss, and notice of loss. Reporting to any other agency does not relieve those listed in subsection (2) of this section of their mandatory duty to report to the division.

(7) If the information referred to in this section is specifically requested by the division, any other law enforcement agency, or a prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.

(8) In the absence of malice, fraud, or gross negligence, ***the following*** ~~[no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, the Department of Workers' Claims, their respective employees, or an insured]~~ shall ***not*** be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection***:***

(a) An insurer;

(b) An agent authorized by an insurer to act on its behalf;

(c) A law enforcement agency;

(d) The Department of Workers' Claims;

(e) The boards named in subsection (2)(d) of this section;

(f) Employees of the persons named in paragraphs (d) and (e) of this subsection; or

(g) An insured.

➔Section 3. KRS 189.635 is amended to read as follows:

(1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to ensure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his or her law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) ***(a)*** All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall not be considered open records under KRS ***61.870*** ~~[61.872]~~ to 61.884 and shall remain confidential, except that the department may***:***

1. Disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident***; and***

2. Make the reports available:

a. To the persons named in paragraph (c) of this subsection; and

b. In accordance with subsection (8) of this section.

(b) ~~[Except as provided in subsection (9) of this section,]~~All other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure ***under KRS 61.870 to 61.884,*** except ***when:***

1. ~~[when]~~Produced pursuant to a properly executed subpoena or court order***; or***~~[, or except pursuant to]~~

2. Disclosed as provided in~~[subsection (8) of]~~ this section.

(c) Accident~~[These]~~ reports shall be made available~~[only]~~ to***:***

1. The parties to the accident***;***~~[,]~~

2. The parents or guardians of a minor who is party to the accident***;***~~[, and]~~

3. Insurers or their written designee for insurance business purposes of any party who is the subject of the report***;***~~[, or to]~~

4. The attorneys of the parties ***to the accident;***

5. Any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties; and

6. The Department of Workplace Standards in the Labor Cabinet if the accident report is pertinent to an occupational safety and health investigation.

(6) ***(a)*** Except as provided for in ***paragraph (b) of*** this subsection, the department shall not release accident reports for a commercial purpose.

(b) Notwithstanding any other provision of this section, the department may, as a matter of public safety, contract with an outside entity and release ***unredacted*** vehicle damage data extracted from accident reports to ***the***~~[such an]~~ entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to ***the***~~[such]~~ reports under ***subsection***~~[subsections]~~ (5)~~[and (9)]~~ of this section.

(7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5)~~[, (8),]~~ and ***(8)***~~[(9)]~~ of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.

(8) (a) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report.

(b) ***For the purposes of this subsection:***

1. "News-gathering organization" includes:

a. A newspaper or periodical~~[shall be considered a news-gathering organization]~~ if it:

i.~~[1.]~~ Is published at least fifty (50) of fifty-two (52) weeks during a calendar year;

ii.~~[2.]~~ Contains at least twenty-five percent (25%) news content in each issue or no more than seventy-five percent (75%) advertising content in any issue in the calendar year; and

iii.~~[3.]~~ Contains news of general interest to its readers that can include news stories, editorials, sports, weddings, births, and death notices***;***~~[.~~

~~]~~

b. A television or radio station with a valid broadcast license issued by the Federal Communications Commission;

c. A news organization that broadcasts over a multichannel video programming service as defined in KRS 136.602;

d. A Web site published by or affiliated with any entity described in subdivision a., b., or c. of this subparagraph;

e. An online-only newspaper or magazine that publishes news or opinion of interest to a general audience and is not affiliated with any entity described in subparagraph 2. of this paragraph; and

f. Any other entity that publishes news content by any means to the general public or to members of a particular profession or occupational group; and

2. "News-gathering organization" does not include any product or publication with the primary purpose of distributing advertising or of publishing names and other personal identifying information concerning parties to motor vehicle accidents which may be used to solicit for services covered under Subtitle 39 of KRS Chapter 304.

(c) A ***news-gathering organization***~~[newspaper, periodical, or radio or television station]~~ shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

(d) ~~[For the purposes of this section, the meaning of "news gathering organization" does not include any product or publication:~~

~~1. Which is intended primarily for members of a particular profession or occupational group; or~~

~~2. With the primary purpose of distributing advertising or of publishing names and other personal identifying information concerning parties to motor vehicle accidents which may be used to solicit for services covered under Subtitle 39 of KRS Chapter 304.~~

~~(e)]~~A request under this ***subsection***~~[section]~~ shall be completed using a form promulgated by the department through administrative regulations in accordance with KRS Chapter 13A. The form under this paragraph shall include:

1. The name and address of the requestor and the news-gathering organization the requestor represents;

2. A statement that the requestor is a news-gathering organization under this subsection ***and identifying the specific subdivision of paragraph (b)1. of this subsection under which the requester qualifies***;

3. A statement that the request is in compliance with the criteria contained in this section; and

4. A declaration of the requestor as to the accuracy and truthfulness of the information provided in the request.

(e) 1. The department shall redact all personal information from a report prior to making it available to a news-gathering organization as defined under paragraph (b)1.f. of this subsection.

2. Reports may be provided to news-gathering organizations as defined under paragraph (b)1.a. to e. of this subsection without redaction.

3. For the purposes of this paragraph, "personal information" means:

a. The address, driver's license number, phone number, date of birth, and any other contact information contained in the report for each person listed on the report; and

b. The vehicle identification numbers (VINs) for each vehicle listed on the report.

(9) ~~[The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.~~

~~(10) The report shall be made available without subpoena to the Department of Workplace Standards in the Labor Cabinet if the accident report is pertinent to an occupational safety and health investigation.~~

~~(11) ~~]The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

(10) ~~[(12)]~~ For reporting and statistical purposes, an autocycle as defined in KRS 186.010 shall be listed as its own distinct category and shall not be considered to be a motor vehicle or a motorcycle for reports issued under this section.

➔SECTION 4. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and in Section 5 of this Act:

(a) "Compensation arrangement" has the same meaning as in 42 U.S.C. sec. 1395nn, as amended; and

(b) "Health care provider" or "provider" means:

1. An individual who is licensed under KRS 309.353 or KRS Chapter 311, 311A, 311B, 312, 313, 314, 314A, 315, 319, 319A, 319B, 320, or 327 and who is not enrolled in the Kentucky Medicaid program; or

2. A medical laboratory, as defined in KRS 333.020, that is not enrolled in the Kentucky Medicaid program.

(2) Except as otherwise provided in subsection (3) of this section:

(a) If a health care provider, directly or indirectly, has either of the following financial relationships with a person or entity, the provider shall not make a referral to the person or entity for the furnishing of health care services for which payment may be made from basic or added reparation benefits provided under this subtitle:

1. An ownership or investment interest in the person or entity, whether through debt, equity, or other means; or

2. A compensation arrangement between the provider, directly or indirectly, and the person or entity; and

(b) No person or entity shall present, cause to be presented, or collect payment on a claim or bill for health care services referred to the person or entity that the person or entity knows or should know is in violation of paragraph (a) of this subsection.

(3) Any conduct or activity which is permitted by or protected under 42 U.S.C. sec. 1395nn(b) to (e), as amended, 42 U.S.C. sec. 1320a-7b(b)(3), as amended, or a federal regulation adopted under those sections, as amended, shall not be deemed to violate this section, and the conduct or activity shall be accorded the same protections allowed under these federal laws and regulations.

(4) (a) No insurer shall be required to pay basic or added reparations benefits to a person or entity for health care services referred to that person or entity in violation of this section.

(b) If a person or entity collects any amount in basic or added reparations benefits in violation of this section, the person or entity shall refund, on a timely basis, the amount collected.

➔Section 5. KRS 304.99-060 is amended to read as follows:

(1) (a) The owner of any vehicle who fails to have in full force and effect the security required by Subtitle 39 of this chapter shall:

1. Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or sentenced to not more than ninety (90) days in jail, or both;

2. Have the registration of the motor vehicle revoked and the license plates of the vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the commissioner, is furnished that the security is then and will remain in effect; and

3. For the second and each subsequent offense within any five (5) year period, have his or her operator's license revoked in accordance with KRS 186.560, and may be sentenced to one hundred and eighty (180) days in jail, or fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500), or both.

(b) Penalties under paragraph (a) of this subsection for the first offense are subject to conditional discharge, suspension, or other forms of reduction of penalty by judicial discretion upon production of proof of security.

(c) For the second and each subsequent offense, minimum fines, suspensions, and penalties under paragraph (a) of this subsection are subject to conditional discharge, suspension, or other forms of reduction of penalty, by judicial discretion only upon production of proof of security and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(d) Upon expiration of the minimum six (6) month policy period, the court shall order the vehicle owner to appear before it to verify renewal of the security required by Subtitle 39 of this chapter by production of proof of security and a receipt showing that a premium for a minimum six (6) month policy period has been paid.

(e) Failure to appear shall result in the suspension of the vehicle owner's operator's license pursuant to KRS 186.570.

(f) Unless uninterrupted coverage is maintained, cancellation or expiration of the procured security before the end of the minimum six (6) month policy period shall be a Class B misdemeanor.

(g) Unless the requirement of paragraph (d) of this subsection is satisfied, the court shall revoke any conditional discharge, suspension, or other form of reduction of penalty granted under paragraph (c) of this subsection.

(2) A person who operates a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter shall:

(a) Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or sentenced to not more than ninety (90) days in jail, or both; and

(b) For the second and each subsequent offense within any five (5) year period, have his or her operator's license revoked in accordance with KRS 186.560, and may be sentenced to not more than one hundred eighty (180) days in jail or fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500), or both.

(3) If the person who operates a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter is also the owner of the motor vehicle, the person shall be subject to penalties under both subsection (1) and subsection (2) of this section.

(4) The following shall be subject to a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each violation:

(a) Any person or entity that presents, causes to be presented, or collects payment on a bill or claim for health care services that the person or entity knows or should know were referred in violation of Section 4 of this Act; and

(b) Any person or entity that knowingly fails to make a timely refund required by Section 4 of this Act.

(5) A health care provider or other person or entity that enters into an arrangement or scheme that the provider, person, or entity knows or should know has a principal purpose of assuring referrals by the provider that, if made directly by the provider, would be in violation of Section 4 of this Act shall be subject to a civil penalty of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) per arrangement or scheme.

➔Section 6. KRS 309.362 is amended to read as follows:

(1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions or fines not to exceed five hundred dollars ($500) when the licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:

(a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;

(b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist, if in accordance with KRS Chapter 335B. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;

(c) Violating any lawful order or administrative regulation promulgated by the board;

(d) Violating any provision of this chapter or administrative regulations promulgated thereunder;

(e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;

(f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner;

(g) Evidence of gross negligence or gross incompetence in the practice of massage therapy;~~[or]~~

(h) Violating the standards of practice or the code of ethics as promulgated by administrative regulations***;***

(i) Violating Section 4 of this Act; or

(j) Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(2) Any licensed massage therapist who does not desire to meet the qualifications for active license renewal shall, upon application and payment of an inactive renewal fee, be issued an inactive license. The license shall not entitle the license holder to use the term "licensed massage therapist," nor to engage in the practice of massage therapy. The inactive renewal fee shall not exceed fifty dollars ($50) annually.

(3) To regain active status, the licensee shall upon application show completion of one (1) hour of continuing professional education for each month the license has been in an inactive state not to exceed five (5) years. Waivers or extensions of continuing education may be approved at the discretion of the board. Beyond five (5) years, the licensee shall meet the requirements in KRS 309.358.

(4) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.

(5) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under KRS 309.350 to 309.364.

➔Section 7. KRS 311.597 is amended to read as follows:

As used in KRS 311.595(9), "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof" shall include but not be limited to the following acts by a licensee:

(1) Prescribes or dispenses any medication:

(a) With the intent or knowledge that a medication will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose;

(b) With the intent to evade any law with respect to sale, use, or disposition of the medication;

(c) For the licensee's personal use or for the use of his immediate family when the licensee knows or has reason to know that an abuse of a controlled substance is occurring, or may result from such a practice;

(d) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards; or

(e) In response to any communication transmitted or received by computer or other electronic means, when the licensee fails to take the following actions to establish and maintain a proper physician-patient relationship:

1. Verification that the person requesting medication is in fact who the patient claims to be;

2. Establishment of a documented diagnosis through the use of accepted medical practices; and

3. Maintenance of a current medical record.

For the purposes of this paragraph, an electronic, on-line, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient or for any follow-up evaluation.

(2) Issues, publishes, or makes oral or written representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including but not limited to:

(a) Any representation in which the licensee claims that he can cure or treat diseases, ailments, or infirmities by any method, procedure, treatment, or medicine which the licensee knows or has reason to know has little or no therapeutic value;

(b) Represents or professes or holds himself out as being able and willing to treat diseases, ailments, or infirmities under a system or school of practice:

1. Other than that for which he holds a certificate or license granted by the board, or

2. Other than that for which he holds a degree or diploma from a school otherwise recognized as accredited by the board, or

3. Under a school or system which he professes to be self-taught.

For purposes of this subsection, actual injury to a patient need not be established.

(3) A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence, or malpractice.

(4) Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American Medical Association or the code of ethics of the American Osteopathic Association. For the purposes of this subsection, actual injury to a patient need not be established.

(5) Failure by a licensee to report a known or observed violation of KRS Chapter 311 by another licensee as described in KRS 311.606.

(6) Violation by a licensee of Section 4 of this Act.

(7) Conduct by a licensee that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

➔Section 8. KRS 311A.060 is amended to read as follows:

(1) ***(a)*** If it is determined that an entity regulated by the board, a paramedic, first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, first responder, or emergency medical technician, the office of the board may impose any of the sanctions provided in subsection (2) of this section. Any party to the complaint shall have the right to propose findings of fact and conclusions of law, and to recommend sanctions.

(b) For the purposes of this subsection, violation of "a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, first responder, or emergency medical technician" shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(2) The office of the board shall require an acceptable plan of correction and may use any one (1) or more of the following sanctions when disciplining a paramedic, emergency medical technician first responder, emergency medical technician, or any entity regulated by the board:

(a) Private reprimand that shall be shared with each of the paramedic's, first responder's, or emergency medical technician's emergency medical services or related employer and medical director;

(b) Public reprimand;

(c) Fines of fifty dollars ($50) to five hundred dollars ($500) for a natural person or fifty dollars ($50) to five thousand dollars ($5,000) for a public agency or business entity;

(d) Revocation of certification or licensure;

(e) Suspension of licensure until a time certain;

(f) Suspension until a certain act or acts are performed;

(g) Limitation of practice permanently;

(h) Limitation of practice until a time certain;

(i) Limitation of practice until a certain act or acts are performed;

(j) Repassing a portion of the paramedic, first responder, or emergency medical technician examination;

(k) Probation for a specified time; or

(l) If it is found that the person who is licensed or certified by the board has been convicted of, pled guilty to, entered an Alford plea to a felony offense, or has completed a diversion program for a felony offense the license or certification shall be revoked.

(3) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the office of the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.

(4) The institution or imposition of disciplinary action by the office of the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 9. KRS 311B.160 is amended to read as follows:

The board may deny, revoke, or suspend the license of an individual who:

(1) Has engaged in conduct relating to his or her profession that is likely to deceive, defraud, or harm the public**,** ***which shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act***;

(2) Has engaged in alcohol and other drug abuse as defined in KRS 222.005;

(3) Develops a physical or mental disability or other condition that makes continued practice or performance of his or her duties potentially dangerous to patients or the public;

(4) Performs procedures under or represents as valid to any person a license:

(a) Not issued by the board;

(b) Containing unauthorized alterations; or

(c) Containing changes that are inconsistent with board records regarding its issuance;

(5) Has been convicted of a crime that is a felony under the laws of this state or convicted of a felony in a federal court, unless the individual has had all civil rights restored, if in accordance with KRS Chapter 335B;

(6) Exhibits significant or repeated failure in the performance of professional duties; or

(7) Fails to comply with any administrative regulation of the board.

➔Section 10. KRS 312.150 is amended to read as follows:

(1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:

(a) That fraud, misrepresentation, concealment of material facts, or deceit was used in obtaining or retaining the license;

(b) That the licensee no longer possesses a good moral character;

(c) That the licensee has been convicted of a felony or violation of any law involving moral turpitude;

(d) That the licensee solicits or advises patients utilizing false, deceptive, or misleading statements or information;

(e) That the licensee is impaired by drugs or alcohol to the extent that it may affect the health, welfare, or safety of patients;

(f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;

(g) That the licensee has***:***

1. Violated***:***

a. Any of the provisions of this chapter, or any of the administrative regulations of the board***; or***

b. Section 4 of this Act; or

2. Engaged in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act;

(h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175;

(i) That the licensee failed to provide a complete copy of the patient's medical records or an itemized statement to the patient upon request, pursuant to KRS 422.317, within ten (10) business days; or

(j) That the chiropractor failed to provide notice of a change in address or change in the name and address of the facility where the chiropractor practices as required by KRS 312.145(4).

(2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

(a) Gross ignorance of, or incompetence in, the practice of chiropractic;

(b) Performing unnecessary services;

(c) Charging a patient an unconscionable fee or charging for services not rendered;

(d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment;

(e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal Medicaid and Medicare laws;

(f) Advertising that the licensee shall accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given;

(g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge; or

(h) Conviction of a misdemeanor offense under KRS Chapter 510 involving a patient while the patient was under the care of the chiropractor, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or the chiropractor having been found by the board to have had sexual contact as defined in KRS 510.010 with a patient while the patient was under the care of the chiropractor.

(3) Upon receipt and due consideration of any charges, the board upon an affirmative vote shall determine whether the nature and quality of the charges are such that further investigation or initiation of disciplinary proceedings against the charged licensee is indicated. If disciplinary proceedings are not warranted, the

charges shall be dismissed with or without prejudice. If the board determines that disciplinary proceedings are appropriate, the case may be resolved informally by agreed order or set for hearing to be conducted in accordance with KRS Chapter 13B.

(4) Except for revocation for nonrenewal, no license shall be revoked or suspended without an opportunity for a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation.

(5) If the board substantiates that sexual contact occurred between the chiropractor and a patient while the patient was under the care of or in a professional relationship with the chiropractor, the chiropractor's license may be revoked or suspended with mandatory treatment of the chiropractor as prescribed by the board. The board may require the chiropractor to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

➔Section 11. KRS 313.080 is amended to read as follows:

(1) No person shall:

(a) Call or hold himself out as or use the title dentist, dental specialist, dental hygienist, or dental assistant unless licensed or registered under the provisions of this chapter;

(b) Operate, offer to operate, or represent or advertise the operation of a dental practice of any type unless licensed by or employing individuals licensed by the board;

(c) Employ a dentist, dental hygienist, or dental assistant unless that person is licensed or registered under the provisions of this chapter; or

(d) Maintain any license or certificate authorized by this chapter if convicted of, having entered a guilty plea to, having entered an Alford plea to, or having completed a diversion program for a Class A, B, or C felony offense on or after the date of initial licensure or registration.

(2) Persons licensed or registered by the board or who are applicants for licensure or registration by the board shall be subject to disciplinary action by the board if they:

(a) If licensed or registered by the board***:***~~[,]~~

1. Violate***:***

a. Any provision of this chapter or any administrative regulation promulgated by the board; ***or***

b. Section 4 of this Act; or

2. Engage in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act;

(b) Use fraud or deceit in obtaining or attempting to obtain a license or registration from the board, or are granted a license upon mistake of a material fact;

(c) If licensed or registered by the board, negligently act in a manner inconsistent with the practice of the discipline for which the person is licensed or registered;

(d) Are unable to practice a discipline regulated by the board with reasonable skill or safety or are unfit or incompetent to practice a discipline regulated by the board;

(e) Abuse, misuse, or misappropriate any drugs placed in the custody of the licensee or certified person for administration, or for use of others, or those drugs prescribed by the licensee;

(f) Falsify or fail to make essential entries on essential records;

(g) Are convicted of a misdemeanor which involved acts which bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which the person is an applicant, licensee, or certified person, if in accordance with KRS Chapter 335B;

(h) Are convicted of a misdemeanor which involved fraud, deceit, breach of trust, or physical harm or endangerment to self or others, acts which bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice acts in the license or registration held or sought, if in accordance with KRS Chapter 335B;

(i) Are convicted of a misdemeanor offense under KRS Chapter 510 involving a patient;

(j) Have had a license or certificate to practice as a dentist, dental hygienist, or dental assistant denied, limited, suspended, probated, revoked, or otherwise disciplined in Kentucky or in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

(k) Have a license or registration to practice any activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or registration to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

(l) Violate any lawful order or directive previously entered by the board;

(m) Have been listed on the National Practitioner Databank with a substantiated finding of abuse, neglect, or misappropriation of property;

(n) Fail to notify the board in writing of any change in the person's name, residential address, employment address, preferred mailing address, or telephone number within thirty (30) days of the change;

(o) Fail to comply with KRS 422.317 regarding patient records; or

(p) Fail to report to the board any negative outcome related to dental treatment involving intravenous or conscious sedation beyond anxiety control that requires hospital admission.

(3) A person who violates subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class B misdemeanor for a first offense and a Class A misdemeanor for each subsequent offense. The board shall consider each individual count of a violation as a separate and subsequent offense.

(4) The provisions of this section shall not preclude prosecution for the unlawful practice of dentistry by an agency of the Commonwealth.

(5) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the Office of the Board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.

(6) The institution or imposition of disciplinary action by the Office of the Board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 12. KRS 314.091 is amended to read as follows:

(1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing;

(b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States, if in accordance with KRS Chapter 335B. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;

(c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

(d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

(f) Abuses controlled substances, prescription medications, illegal substances, or alcohol;

(g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;

(h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;

(i) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;

(j) Has violated any of the provisions of this chapter;

(k) Has violated any lawful order or directive previously entered by the board;

(l) Has violated any administrative regulation promulgated by the board;

(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property;

(n) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law;

(o) Used or possessed a Schedule I controlled substance;~~[or]~~

(p) Has used or been impaired as a consequence of the use of alcohol or drugs while practicing as a nurse***;***

(q) Has violated Section 4 of this Act; or

(r) Has engaged in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, privilege, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, privilege, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

(8) The board may, by administrative regulation, provide for the recovery of the costs of an administrative hearing.

➔Section 13. KRS 314A.225 is amended to read as follows:

(1) The board may refuse to issue a certificate, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any certificate holder upon proof that the certificate holder has:

(a) Committed any crime, act of dishonesty, or corruption, if in accordance with KRS Chapter 335B. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the

ensuing disciplinary hearing of the guilt of the certificate holder or applicant. Conviction includes all instances in which a plea of no contest is the basis of conviction;

(b) Misrepresented or concealed a material fact in obtaining, renewing or reinstating a certificate;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of respiratory care;

(e) Violated any state statute or administrative regulation governing the practice of respiratory care or any activities undertaken by a respiratory care practitioner***, which shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act***;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethics as set forth in administrative regulations promulgated by the board; or

(h) Violated any applicable provision of any federal or state law, if in accordance with KRS Chapter 335B.

(2) One (1) year from the date of revocation, any person whose certificate has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the certificate upon a finding that the individual has complied with any terms prescribed by that board and is again able to competently engage in the practice of respiratory care.

(3) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.

(4) The surrender of a certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary action under this chapter.

➔Section 14. KRS 315.121 is amended to read as follows:

(1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:

(a) Unprofessional or unethical conduct;

(b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging or assisting in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;

(c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more or the following, if in accordance with KRS Chapter 335B:

1. A crime as defined in KRS 335B.010; or

2. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;

(d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;

(e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;

(f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;

(g) Engaging in or aiding and abetting an individual to engage or assist in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," "pharmacy technician," or other term which might imply that the individual is a pharmacist, pharmacist intern, or pharmacy technician;

(h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;

(i) Violation of any order issued by the board to comply with any applicable law or administrative regulation;

(j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board; or

(k) Failure to notify the board within fourteen (14) days of a change in one's home address.

(2) Unprofessional or unethical conduct includes but is not limited to the following acts of a pharmacist, pharmacist intern, or pharmacy technician:

(a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;

(b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:

1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;

2. Certified or licensed health-care personnel who are responsible for care of the patient;

3. Designated agents of the Cabinet for Health and Family Services for the purposes of enforcing the provisions of KRS Chapter 218A;

4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or

5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;

(c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist, pharmacy intern, or pharmacy technician knows or should have known of their intended use in illegal activities;

(d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;

(e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;

(f) Except as provided in KRS 315.500, selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;

(g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;

(h) Obtaining any remuneration by fraud, misrepresentation, or deception;

(i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care;~~[or]~~

(j) Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful***;***

(k) Violating Section 4 of this Act; or

(l) Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.

(4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.

(5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.

(6) Any licensee, permit holder, or certificate holder who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.

(a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.

(b) No person may have his or her record expunged under this section more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; assist in the practice of pharmacy; provide home medical equipment and services; adversely affect the public health, safety, or welfare; or result in economic or physical harm to a person; or create a significant threat of such harm.

➔Section 15. KRS 319.082 is amended to read as follows:

(1) The board may suspend, revoke, or refuse to issue or renew a license; may accept an assurance of voluntary compliance; restrict, or place a credential holder on probation; or issue an administrative reprimand or private admonishment upon proof that the credential holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not, if in accordance with KRS Chapter 335B. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of psychology;

(e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;

(f) Violated any state statute or administrative regulation governing the practice of psychology***, which shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act***;

(g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

3. Not appearing before the board at the time and place designated; or

4. Not properly responding to subpoenas issued by the board;

(h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(i) Aided or abetted an unlicensed person to practice when a license or certificate is required;

(j) Grossly overcharged for professional services;

(k) Practiced beyond the scope demonstrated by an appropriate combination of knowledge, skill, experience, training, and education;

(l) Failed to provide adequate supervision for certified psychologists, licensed psychological associates, applicants for licensure, or other staff;

(m) Been convicted of any misdemeanor or felony relating to the practice of psychology, if in accordance with KRS Chapter 335B. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;

(n) Physically abused or had sexual contact with a patient, client, student, or supervisee;

(o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010 with a client, patient, student, or supervisee;

(p) Improperly divulged confidential information;

(q) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;

(r) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or

(s) Failed to comply with the requirements of the board for continuing education.

(2) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the credential holder or applicant.

(3) No unlawful act or violation of any provision of this chapter by any credential holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.

(4) Three (3) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate his or her petition and may reinstate his or her license upon finding that the former licensee has complied with the provisions of this chapter and administrative regulations promulgated by the board and is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public.

(5) The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, restrictions, or refusals to issue or renew licenses at any time.

➔Section 16. KRS 319A.190 is amended to read as follows:

(1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:

(a) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(b) Unprofessional conduct as defined by administrative regulations promulgated by the board, or violating the code of ethics promulgated by the board;

(c) Being convicted of a felony in any court if the act or acts for which he was convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a licensed occupational therapist or licensed occupational therapy assistant, if in accordance with KRS Chapter 335B;

(d) Violating any lawful order or administrative regulation rendered or promulgated by the board;~~[or]~~

(e) Violating any provision of this chapter***;***

(f) Violating Section 4 of this Act; or

(g) Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.

(3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

➔Section 17. KRS 319B.140 is amended to read as follows:

(1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:

(a) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violation of the code of ethics promulgated by the board through administrative regulations;

(c) Being convicted of a felony in any court if the act or acts for which the applicant or licensee was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed profession, if in accordance with KRS Chapter 335B;

(d) Violating any lawful order or administrative regulation rendered or promulgated by the board;~~[or]~~

(e) Violating any provision of this chapter***;***

(f) Violating Section 4 of this Act; or

(g) Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon an applicant or licensee may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board may accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.

(3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

➔Section 18. KRS 320.310 is amended to read as follows:

(1) The board may refuse to issue, refuse to renew, limit or restrict, revoke, or suspend a license, may place on probation, or reprimand a licensee, may order restitution, may impose a fine not to exceed one thousand dollars ($1,000) for each violation of this chapter or the corresponding administrative regulations, or may impose any combination of these penalties if it finds that an applicant or a licensee has:

(a) Engaged in any practice of fraud or deceit in obtaining or attempting to obtain a license;

(b) Been convicted of any felony or has been convicted of a misdemeanor involving sexual misconduct, if in accordance with KRS Chapter 335B. A record of the conviction or a certified copy of the record shall be conclusive evidence of the conviction;

(c) Chronic or persistent inebriety or addiction to a drug habit to an extent that continued practice is dangerous to patients or to the public safety;

(d) Been granted a license upon a mistake of material fact;

(e) Engaged in incompetence, as determined by the board;

(f) Practiced as an itinerant, peddled from door to door, established a temporary office, or practiced optometry outside of or away from his or her regular office or place of practice, except that the board may promulgate administrative regulations to authorize the practice of optometry outside of the licensee's regular office for a charitable purpose as defined by the board;

(g) Employed, procured, induced, aided, or abetted any person, not holding a Kentucky license, to practice optometry or in practicing optometry;

(h) Used the title "doctor" or its abbreviation without further qualifying this title or abbreviation with the word "optometrist" or suitable words or letters designating an optometry degree;

(i) Engaged in any conduct likely to deceive or defraud the public;

(j) Violated any order issued by the board;

(k) Had his or her license to practice optometry in any other jurisdiction revoked, suspended, limited, placed on conditions of probation, or subjected to any other disciplinary action by that jurisdiction's licensing authority;

(l) Prescribed any therapeutic agent in an amount that the optometrist knows, or should know, is excessive under accepted and prevailing standards, or which the optometrist knows, or has reason to know, will be used or is likely to be used other than for an accepted therapeutic purpose;

(m) Developed a physical or mental disability, or other condition, which renders the continued practice by the optometrist dangerous to patients or the public;~~[or]~~

(n) Violated any statute under this chapter or administrative regulation promulgated under those statutes***;***

(o) Violated Section 4 of this Act; or

(p) Engaged in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(2) Nothing in this section shall prevent an optometrist from establishing branch offices if each office contains minimum equipment as required by administrative regulation of the board, ensures patient care as necessary, and has a Kentucky licensed optometrist in charge of the office.

(3) Any licensee, permit holder, or certificate holder who is disciplined under this chapter for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.

(a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.

(b) No person may have his or her record expunged under this chapter more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; adversely affect the public health, safety or welfare; or result in economic or physical harm to a person, or create a significant threat of such harm.

➔Section 19. KRS 327.070 is amended to read as follows:

(1) The board, after due notice and an opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B may take any one (1) or a combination of the following actions against any licensee, certificate holder, or applicant:

(a) Refuse to license or certify any applicant;

(b) Refuse to renew the license or certificate of any person;

(c) Suspend or revoke or place on probation the license or certificate of any person;

(d) Impose restrictions on the scope of practice of any person;

(e) Issue an administrative reprimand to any person;

(f) Issue a private admonishment to any person; and

(g) Impose fines for violations of this chapter not to exceed two thousand five hundred dollars ($2,500).

(2) The following acts by a licensee, certificate holder, or applicant may be considered cause for disciplinary action:

(a) Indulgence in excessive use of alcoholic beverages or abusive use of controlled substances;

(b) Engaging in, permitting, or attempting to engage in or permit the performance of substandard patient care by himself or by persons working under his supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;

(c) Having engaged in or attempted to engage in a course of lewd or immoral conduct with any person:

1. While that person is a patient of a health care facility defined by KRS 216B.015 where the physical therapist or physical therapist's assistant provides physical therapy services; or

2. While that person is a patient or client of the physical therapist or physical therapist's assistant;

(d) Having sexual contact, as defined by KRS 510.010(7), without the consent of both parties, with an employee or coworker of the licensee or certificate holder;

(e) Sexually harassing an employee or coworker of the licensee or certificate holder;

(f) Conviction of a felony or misdemeanor in the courts of this state or any other state, territory, or country which affects his ability to continue to practice competently and safely on the public, if in accordance with KRS Chapter 335B. "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;

(g) Obtaining or attempting to obtain a license or certificate by fraud or material misrepresentation or making any other false statement to the board;

(h) Engaging in fraud or material deception in the delivery of professional services, including reimbursement, or advertising services in a false or misleading manner;

(i) Evidence of gross negligence or gross incompetence in his practice of physical therapy;

(j) Documentation of being declared mentally disabled by a court of competent jurisdiction and not thereafter having had his rights restored;

(k) Failing or refusing to obey any lawful order or administrative regulation of the board;

(l) Promoting for personal gain an unnecessary device, treatment, procedure, or service, or directing or requiring a patient to purchase a device, treatment, procedure, or service from a facility or business in which he has a financial interest;~~[and]~~

(m) Being impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently***;***

(n) Violation of Section 4 of this Act; and

(o) Conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

(3) A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant.

➔Section 20. KRS 333.190 is amended to read as follows:

A medical laboratory license may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:

(1) Making false statements on an application for medical laboratory license or any other documents required by the cabinet.

(2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports.

(3) Demonstrating incompetence or making frequent errors in the performance or reporting of medical laboratory examinations and procedures.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Reporting the results determined on a specimen by a medical laboratory which has not been licensed or exempted under this chapter.

(6) Rendering a report on medical laboratory work actually performed in another medical laboratory without designating the name of the director and the name and address of the medical laboratory in which the test was performed.

(7) Knowingly having professional connection with or knowingly lending the use of the name of the licensed medical laboratory or its director to an unlicensed medical laboratory.

(8) Violating or aiding and abetting in the violation of any provision of this chapter or the rules or regulations promulgated hereunder.

(9) Failing to submit to the cabinet any report required by the provisions of this chapter or the reasonable rules and regulations promulgated hereunder.

(10) Violating Section 4 of this Act.

(11) Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.

Signed by Governor March 26, 2019.

CHAPTER 144

(HB 378)

AN ACT relating to youth homelessness.

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

➔Section 1. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:

1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law; and

3. Every public middle and high school's curriculum shall include instruction on the Holocaust and other cases of genocide, as defined by the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, that a court of competent jurisdiction, whether a court in the United States or the International Court of Justice, has determined to have been committed by applying rigorous standards of due process;

(b) Courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for courses in advanced science and mathematics as defined in KRS 158.845;

(c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(d) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS

158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(e) The requirements for an alternative high school diploma for students with disabilities whose individualized education program indicates that, in accordance with 20 U.S.C. sec. 1414(d)(1)(A):

1. The student cannot participate in the regular statewide assessment; and

2. An appropriate alternate assessment has been selected for the student based upon a modified curriculum and an individualized course of study;

(f) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(g) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(h) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(i) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

(j) 1. Beginning with the 2010-2011 school year, a dental screening or examination by a dentist, dental hygienist, physician, registered nurse, advanced practice registered nurse, or physician assistant that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a dental screening or examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a five (5) or six (6) year-old child is enrolled in a public school.

2. A child shall be referred to a licensed dentist if a dental screening or examination performed by anyone other than a licensed dentist identifies the possibility of dental disease;

(k) The transportation of children to and from school;

(l) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(m) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(n) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts;~~[and]~~

(o) The disposal of real and personal property owned by local boards of education***; and***

(p) The development and implementation of procedures, for all students who are homeless children and youths as defined in 42 U.S.C. sec. 11434a(2), to do the following:

1. Awarding and accepting of credit, including partial credit, for all coursework satisfactorily completed by a student while enrolled at another school;

2. Allowing a student who was previously enrolled in a course required for graduation the opportunity, to the extent practicable, to complete the course, at no cost to the student, before the beginning of the next school year;

3. Awarding a diploma, at the student's request, by a district from which the student transferred, if the student transfers schools at any time after the completion of the student's second year of high school and the student is ineligible to graduate from the district to which the student transfers, but meets the graduation requirements of the district from which the student transferred; and

4. Exempting the student from all coursework and other requirements imposed by the local board of education that are in addition to the minimum requirements for high school graduation established by the Kentucky Board of Education pursuant to KRS 156.160(1)(d) in the district to which the student transfers, if the student transfers schools at any time after the completion of the student's second year of high school and the student is ineligible to graduate both from the district to which the student transfers and the district from which the student transferred.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;

2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;

2. Administrative regulations relating to civil rights;

3. Administrative regulations required by federal law; and

4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

➔Section 2. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars ($10) to be paid for a certified copy of a record of a birth:

(a) Three dollars ($3) of which shall be used by the Cabinet for Health and Family Services for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children; and

(b) One dollar ($1) of which shall be used by the Division of Maternal and Child Health to pay for therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified foods for all inborn errors of metabolism and genetic conditions if:

1. The therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products are medically indicated for the therapeutic treatment of inborn errors of metabolism or genetic conditions and are administered under the direction of a physician; and

2. The affected person's therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein foods are not covered under any public or private health benefit plan.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) (a) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a member of the Kentucky National Guard who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.

(c) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a child who is in the custody of or committed to the cabinet, including a child who has extended commitment to the cabinet in accordance with KRS 610.110(6).

(d) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a homeless individual as defined by KRS 198A.700, including a minor who is a homeless individual, provided the homeless individual is under twenty five (25) years of age and has been verified as a homeless child or youth, as defined in 42 U.S.C. sec. 11434a(2), by at least one (1) of the following:

1. A director or designee of a governmental or nonprofit agency that receives public or private funding to provide services to homeless people;

2. A local educational agency liaison for homeless children and youths designated pursuant to 42 U.S.C. sec. 11432(g)(1)(J)(ii), or a school social worker or school counselor;

3. The director, or directors designee, of a federal TRIO Program or a Gaining Early Awareness and Readiness for Undergraduate Program; or

4. A financial aid administrator for an institution of higher education.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Signed by Governor March 26, 2019.

CHAPTER 145

(HB 411)

AN ACT relating to assistance animals.

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

➔Section 1. KRS 383.085 is amended to read as follows:

(1) As used in this section:

(a) "Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. This shall include a service animal specifically trained or equipped to perform tasks for a person with a disability, or an emotional support animal that provides support to alleviate one or more identified symptoms or effects of a person's disability; and

(b) "Therapeutic relationship" means the provision of ~~[medical]~~care, ~~[program care, or personal care services,]~~ in good faith, to the person with a disability by:

1. ***A licensed clinical social worker who holds a valid, unrestricted state license under KRS 335.100 and who maintains an active practice within the state***~~[A mental health service provider]~~;

2. ***A professional counselor who holds a valid, unrestricted state license under KRS 335.525 and who maintains an active practice within the state;***~~[An individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; or]~~

3. ***An advanced practice registered nurse who holds a valid, unrestricted state license under KRS 314.042 and who maintains an active practice within the state;***~~[A caregiver, reliable third party, or a government entity with actual knowledge of the person's disability]~~

4. A psychologist who holds a valid, unrestricted state license under KRS 319.050 or 319.053 and who maintains an active practice within the state; or

5. A physician who holds a valid, unrestricted state license under KRS 311.571 and who maintains an active practice within the state.

An individual who moves from another state may provide documentation from a health services provider who is licensed in that state, so long as the person with a disability has an ongoing therapeutic relationship with the provider. This definition shall not include a health care provider described in this paragraph whose primary service is to provide documentation to a person requesting a reasonable accommodation in exchange for a fee.

(2) A person with a disability may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Unless the person's disability or disability-related need is readily apparent, the person receiving the request may ask the person making the request to provide reliable documentation of the disability-related need for an assistance animal, including documentation from any person with whom the person making the request has or has had a therapeutic relationship.

(3) Unless the person making the request has a disability or disability-related need for an assistance animal that is readily apparent, a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation to verify the disability-related need for the reasonable accommodation regarding an assistance animal. The person receiving the request may independently verify the authenticity of any supporting documentation.

(4) A person with a disability who is granted a reasonable accommodation to maintain an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. The person shall not be required to pay a pet fee or deposit or any additional rent to

maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for physical damages to the dwelling caused by pets. Nothing in this section shall be construed to affect any cause of action against any resident for other damages under the laws of the Commonwealth.

(5) Notwithstanding any other law to the contrary, a landlord shall not be liable for injuries by a person's assistance animal permitted on the landlord's property as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, 42 U.S.C. secs. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. secs. 12101 et seq., and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. sec. 701, or any other federal, state, or local law.

(6) A person commits the offense of misrepresentation of an assistance animal if the person knowingly:

(a) Misrepresents as a part of a request for a reasonable accommodation to maintain an assistance animal in a dwelling that the person has a disability or disability-related need for the use of an assistance animal;

(b) Makes materially false statements for the purpose of obtaining documentation for the use of an assistance animal in housing;

(c)~~[Creates or executes a document that misrepresents an animal as an assistance animal for use in housing;~~

~~(d)]~~ Provides a document to another falsely stating that an animal is an assistance animal for use in housing;~~[or]~~

(d)~~[(e)]~~ Fits an animal, which is not an assistance animal, with a harness, collar, vest, or sign that the pet is an assistance animal for use in housing***;***

(e) Engages in fraud, deceit, or dishonesty in providing documentation to a person as a part of a request for the use of an assistance animal in housing; or

(f) Provides documentation as a part of a request for an assistance animal in housing to a person for the primary purpose of obtaining a fee.

(7) Misrepresentation of an assistance animal is a violation with a fine of up to one thousand dollars ($1,000).

Signed by Governor March 26, 2019.

CHAPTER 146

(HB 392)

AN ACT relating to reorganization.

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

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

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

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

(1) The Governor.

(2) Lieutenant Governor.

(3) Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

(4) Department of Law.

(a) Attorney General.

(5) Department of the Treasury.

(a) Treasurer.

(6) Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

(7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

(1) Justice and Public Safety Cabinet:

(a) Department of Kentucky State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Office of Drug Control Policy.

(g) Office of Legal Services.

(h) Office of the Kentucky State Medical Examiner.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Office of Legislative and Intergovernmental Services.

(l) Office of Management and Administrative Services.

(m) Department of Public Advocacy.

(2) Education and Workforce Development Cabinet:

(a) Office of the Secretary.

1. Governor's Scholars Program.

2. Governor's School for Entrepreneurs Program.

3. Office of the Kentucky Workforce Innovation Board.

4. Foundation for Adult Education.

5. Early Childhood Advisory Council.

(b) Office of Legal and Legislative Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of ***Administrative Services***~~[Budget and Administration]~~.

1. Division of Human Resources.

2. ***Division of Operations and Support Services.***~~[Division of Administrative Services.]~~

3. Division of Fiscal Management.

(e) Office of Technology Services.

(f) Office of Educational Programs.

(g) Office for Education and Workforce Statistics.

(h) Board of the Kentucky Center for Education and Workforce Statistics.

(i) Board of Directors for the Center for School Safety.

(j) Department of Education.

1. Kentucky Board of Education.

2. Kentucky Technical Education Personnel Board.

(k) Department for Libraries and Archives.

(l) Department of Workforce Investment.

1. ~~[Office for the Blind.~~

~~2.]~~Office of Vocational Rehabilitation.

a. Division of Kentucky Business Enterprise.

b. Division of the Carl D. Perkins Vocational Training Center.

c. Division of Blind Services.

d. Division of Field Services.

e. Statewide Council for Vocational Rehabilitation.

2.~~[3.]~~ ***Office of Unemployment Insurance***~~[Office of Employment and Training.~~

~~a. Division of Grant Management and Support.~~

~~b. Division of Workforce and Employment Services.~~

~~c. Division of Unemployment Insurance]~~.

3. Office of Employer and Apprenticeship Services.

4. Office of Career Development.

5. Office of Adult Education.

6. Unemployment Insurance Commission.

(m) Foundation for Workforce Development.

(n) ~~[Kentucky Office for the Blind State Rehabilitation Council.~~

~~(o)]~~Kentucky Workforce Investment Board.

(o)~~[(p) Statewide Council for Vocational Rehabilitation.~~

~~(q) Unemployment Insurance Commission.~~

~~(r)]~~ Education Professional Standards Board.

1. Division of Educator Preparation.

2. Division of Certification.

3. Division of Professional Learning and Assessment.

4. Division of Legal Services.

(p)~~[(s)]~~ Kentucky Commission on the Deaf and Hard of Hearing.

(q)~~[(t)]~~ Kentucky Educational Television.

(r)~~[(u)]~~ Kentucky Environmental Education Council.

(3) Energy and Environment Cabinet:

(a) Office of the Secretary.

1. Office of Legislative and Intergovernmental Affairs.
2. Office of Legal Services.
    a. Legal Division I.
    b. Legal Division II.
3. Office of Administrative Hearings.
4. Office of Communication.
5. Mine Safety Review Commission.
6. Office of Kentucky Nature Preserves.
7. Kentucky Public Service Commission.

(b) Department for Environmental Protection.

1. Office of the Commissioner.
2. Division for Air Quality.
3. Division of Water.
4. Division of Environmental Program Support.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.

(c) Department for Natural Resources.

1. Office of the Commissioner.
2. Division of Mine Permits.
3. Division of Mine Reclamation and Enforcement.
4. Division of Abandoned Mine Lands.
5. Division of Oil and Gas.
6. Division of Mine Safety.
7. Division of Forestry.
8. Division of Conservation.
9. Office of the Reclamation Guaranty Fund.

(d) Office of Energy Policy.

1. Division of Energy Assistance.

(e) Office of Administrative Services.

1. Division of Human Resources Management.
2. Division of Financial Management.
3. Division of Information Services.

(4) Public Protection Cabinet.

(a) Office of the Secretary.

1. Office of Communications and Public Outreach.
2. Office of Legal Services.

a. Insurance Legal Division.

b. Charitable Gaming Legal Division.

c. Alcoholic Beverage Control Legal Division.

d. Housing, Buildings and Construction Legal Division.

e. Financial Institutions Legal Division.

f. Professional Licensing Legal Division.

3. Office of Administrative Hearings.

4. Office of Administrative Services.

a. Division of Human Resources.

b. Division of Fiscal Responsibility.

(b) Kentucky Claims Commission.

(c) Kentucky Boxing and Wrestling Commission.

(d) Kentucky Horse Racing Commission.

1. Office of Executive Director.

a. Division of Pari-mutuel Wagering and Compliance.

b. Division of Stewards.

c. Division of Licensing.

d. Division of Enforcement.

e. Division of Incentives and Development.

f. Division of Veterinary Services.

(e) Department of Alcoholic Beverage Control.

1. Division of Distilled Spirits.

2. Division of Malt Beverages.

3. Division of Enforcement.

(f) Department of Charitable Gaming.

1. Division of Licensing and Compliance.

2. Division of Enforcement.

(g) Department of Financial Institutions.

1. Division of Depository Institutions.

2. Division of Non-Depository Institutions.

3. Division of Securities.

(h) Department of Housing, Buildings and Construction.

1. Division of Fire Prevention.

2. Division of Plumbing.

3. Division of Heating, Ventilation, and Air Conditioning.

4. Division of Building Code Enforcement.

(i) Department of Insurance.

1. Division of Insurance Product Regulation.

2. Division of Administrative Services.

3. Division of Financial Standards and Examination.
4. Division of Agent Licensing.
5. Division of Insurance Fraud Investigation.
6. Division of Consumer Protection.
7. Division of Kentucky Access.

(j) Department of Professional Licensing.

1. Real Estate Authority.

(5) Labor Cabinet.

(a) Office of the Secretary.

1. Office of General Counsel.
   a. Workplace Standards Legal Division.
   b. Workers' Claims Legal Division.
2. Office of Administrative Services.
   a. Division of Human Resources Management.
   b. Division of Fiscal Management.
   c. Division of Professional Development and Organizational Management.
   d. Division of Information Technology and Support Services.
3. Office of Inspector General.

(b) Department of Workplace Standards.

1. ~~[Division of Apprenticeship.~~

~~2.]~~ Division of Occupational Safety and Health Compliance.

2.~~[3.]~~ Division of Occupational Safety and Health Education and Training.

3.~~[4.]~~ Division of Wages and Hours.

(c) Department of Workers' Claims.

1. Division of Workers' Compensation Funds.
2. Office of Administrative Law Judges.
3. Division of Claims Processing.
4. Division of Security and Compliance.
5. Division of Information Services.
6. Division of Specialist and Medical Services.
7. Workers' Compensation Board.

(d) Workers' Compensation Funding Commission.

(e) Occupational Safety and Health Standards Board.

(f) Apprenticeship and Training Council.

(g) State Labor Relations Board.

(h) Employers' Mutual Insurance Authority.

(i) Kentucky Occupational Safety and Health Review Commission.

(j) Workers' Compensation Nominating Committee.

(6) Transportation Cabinet:

(a) Department of Highways.
    1. Office of Project Development.
    2. Office of Project Delivery and Preservation.
    3. Office of Highway Safety.
    4. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Aviation.
(d) Department of Rural and Municipal Aid.
    1. Office of Local Programs.
    2. Office of Rural and Secondary Roads.
(e) Office of the Secretary.
    1. Office of Public Affairs.
    2. Office for Civil Rights and Small Business Development.
    3. Office of Budget and Fiscal Management.
    4. Office of Inspector General.
(f) Office of Support Services.
(g) Office of Transportation Delivery.
(h) Office of Audits.
(i) Office of Human Resource Management.
(j) Office of Information Technology.
(k) Office of Legal Services.

(7) Cabinet for Economic Development:
(a) Office of the Secretary.
    1. Office of Legal Services.
    2. Department for Business Development.
    3. Department for Financial Services.
        a. Kentucky Economic Development Finance Authority.
        b. Finance and Personnel Division.
        c. IT and Resource Management Division.
        d. Compliance Division.
        e. Incentive Administration Division.
        f. Bluegrass State Skills Corporation.
    4. Office of Marketing and Public Affairs.
        a. Communications Division.
        b. Graphics Design Division.
    5. Office of Workforce, Community Development, and Research.
    6. Office of Entrepreneurship.
        a. Commission on Small Business Advocacy.

(8) Cabinet for Health and Family Services:

(a) Office of the Secretary.

(b) Office of Health Policy.

(c) Office of Legal Services.

(d) Office of Inspector General.

(e) Office of Communications and Administrative Review.

(f) Office of the Ombudsman.

(g) Office of Finance and Budget.

(h) Office of Human Resource Management.

(i) Office of Administrative and Technology Services.

(j) Department for Public Health.

(k) Department for Medicaid Services.

(l) Department for Behavioral Health, Developmental and Intellectual Disabilities.

(m) Department for Aging and Independent Living.

(n) Department for Community Based Services.

(o) Department for Income Support.

(p) Department for Family Resource Centers and Volunteer Services.

(q) Office for Children with Special Health Care Needs.

(r) Governor's Office of Electronic Health Information.

(s) Office of Legislative and Regulatory Affairs.

(9) Finance and Administration Cabinet:

(a) Office of the Secretary.

(b) Office of the Inspector General.

(c) Office of Legislative and Intergovernmental Affairs.

(d) Office of General Counsel.

(e) Office of the Controller.

(f) Office of Administrative Services.

(g) Office of Policy and Audit.

(h) Department for Facilities and Support Services.

(i) Department of Revenue.

(j) Commonwealth Office of Technology.

(k) State Property and Buildings Commission.

(l) Office of Equal Employment Opportunity and Contract Compliance.

(m) Kentucky Employees Retirement Systems.

(n) Commonwealth Credit Union.

(o) State Investment Commission.

(p) Kentucky Housing Corporation.

(q) Kentucky Local Correctional Facilities Construction Authority.

(r) Kentucky Turnpike Authority.

(s) Historic Properties Advisory Commission.

(t) Kentucky Tobacco Settlement Trust Corporation.

(u) Kentucky Higher Education Assistance Authority.

(v) Kentucky River Authority.

(w) Kentucky Teachers' Retirement System Board of Trustees.

(x) Executive Branch Ethics Commission.

(10) Tourism, Arts and Heritage Cabinet:

(a) Kentucky Department of Tourism.

1. Division of Tourism Services.
2. Division of Marketing and Administration.
3. Division of Communications and Promotions.

(b) Kentucky Department of Parks.

1. Division of Information Technology.
2. Division of Human Resources.
3. Division of Financial Operations.
4. Division of Facilities Management.
5. Division of Facilities Maintenance.
6. Division of Customer Services.
7. Division of Recreation.
8. Division of Golf Courses.
9. Division of Food Services.
10. Division of Rangers.
11. Division of Resort Parks.
12. Division of Recreational Parks and Historic Sites.

(c) Department of Fish and Wildlife Resources.

1. Division of Law Enforcement.
2. Division of Administrative Services.
3. Division of Engineering, Infrastructure, and Technology.
4. Division of Fisheries.
5. Division of Information and Education.
6. Division of Wildlife.
7. Division of Marketing.

(d) Kentucky Horse Park.

1. Division of Support Services.
2. Division of Buildings and Grounds.
3. Division of Operational Services.

(e) Kentucky State Fair Board.

1. Office of Administrative and Information Technology Services.
2. Office of Human Resources and Access Control.
3. Division of Expositions.

4. Division of Kentucky Exposition Center Operations.
5. Division of Kentucky International Convention Center.
6. Division of Public Relations and Media.
7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.

(f) Office of the Secretary.
1. Office of Finance.
2. Office of Government Relations and Administration.
3. Office of Film and Tourism Development.

(g) Office of Legal Affairs.

(h) Office of Human Resources.

(i) Office of Public Affairs and Constituent Services.

(j) Office of Arts and Cultural Heritage.

(k) Kentucky African-American Heritage Commission.

(l) Kentucky Foundation for the Arts.

(m) Kentucky Humanities Council.

(n) Kentucky Heritage Council.

(o) Kentucky Arts Council.

(p) Kentucky Historical Society.
1. Division of Museums.
2. Division of Oral History and Educational Outreach.
3. Division of Research and Publications.
4. Division of Administration.

(q) Kentucky Center for the Arts.
1. Division of Governor's School for the Arts.

(r) Kentucky Artisans Center at Berea.

(s) Northern Kentucky Convention Center.

(t) Eastern Kentucky Exposition Center.

(11) Personnel Cabinet:

(a) Office of the Secretary.

(b) Department of Human Resources Administration.

(c) Office of Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Office of Administrative Services.

(f) Office of Legal Services.

(g) Governmental Services Center.

(h) Department of Employee Insurance.

(i) Office of Diversity, Equality, and Training.

(j) Office of Public Affairs.

III. Other departments headed by appointed officers:

(1) Council on Postsecondary Education.

(2) Department of Military Affairs.

(3) Department for Local Government.

(4) Kentucky Commission on Human Rights.

(5) Kentucky Commission on Women.

(6) Department of Veterans' Affairs.

(7) Kentucky Commission on Military Affairs.

(8) Office of Minority Empowerment.

(9) Governor's Council on Wellness and Physical Activity.

(10) Kentucky Communications Network Authority.

➔Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

~~[(a) Foundation for Adult Education;]~~

(2) Department of Military Affairs;

(3) Department for Local Government;

(4) ~~[Early Childhood Advisory Council;~~

~~(5)]~~Kentucky Commission on Human Rights;

(5) ~~[(6)]~~ Kentucky Commission on Women;

(6) ~~[(7)]~~ Kentucky Commission on Military Affairs;

(7) ~~[(8)]~~ Agricultural Development Board;

(8) ~~[(9)]~~ Kentucky Agricultural Finance Corporation;

(9) ~~[(10)]~~ Office of Minority Empowerment;

(a) The Martin Luther King Commission;

(10) ~~[(11)]~~ Office of Homeland Security; and

(11) ~~[(12)]~~ Kentucky Communications Network Authority.

➔Section 3. KRS 14A.7-030 is amended to read as follows:

(1) An entity administratively dissolved under KRS 14A.7-020 or predecessor law may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

(a) Recite the name of the entity and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(c) State that the entity's name satisfies the requirements of KRS 14A.3-010;

(d) Contain a certificate from the Department of Revenue reciting that all taxes owed by the entity have been paid;

(e) Contain a representation that the entity has taken no steps to wind up and liquidate its business and affairs and notify claimants;

(f) If a business corporation, contain a certificate from the ***Office*** ~~[Division]~~ of Unemployment Insurance in the Department for Workforce Investment reciting that all employer contributions, interest, penalties, and service capacity upgrade fund assessments have been paid; and

(g) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report as provided for in this chapter.

(2) If the Secretary of State determines that the application satisfies the requirement of subsection (1) of this section, he or she shall cancel the certificate of dissolution and prepare a certificate of existence that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and notify the entity of that filing, which notification may be accomplished electronically.

(3) When the reinstatement is effective:

(a) It shall relate back to and take effect as of the effective date of the administrative dissolution:

(b) The entity shall continue carrying on its business as if the administrative dissolution or revocation had never occurred; and

(c) The liability of any agent shall be determined as if the administrative dissolution or revocation had never occurred.

(4) Notwithstanding any other provision to the contrary, any entity which was administratively dissolved and has taken the action necessary to wind up and liquidate its business and affairs and notify claimants shall be prohibited from reinstatement.

➔Section 4. KRS 41.410 is amended to read as follows:

(1) The Commonwealth Council on Developmental Disabilities is created within the Department of the Treasury.

(2) The Commonwealth Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.

(3) The members of the Commonwealth Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.

(a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:

1. Office of Vocational Rehabilitation;

2. ***Division of*** ~~[Office for the]~~ Blind ***Services within the Office of Vocational Rehabilitation***;

3. Division of Exceptional Children, within the Department of Education;

4. Department for Aging and Independent Living;

5. Department for Medicaid Services;

6. Department of Public Advocacy, Protection and Advocacy Division;

7. University-affiliated programs;

8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;

9. Department for Behavioral Health, Developmental and Intellectual Disabilities; and

10. Department for Public Health, Division of Maternal and Child Health.

(b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.

(c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.

(d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The Department of the Treasury shall provide personnel adequate to ensure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.

(4) The Commonwealth Council on Developmental Disabilities shall:

(a) Develop and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;

(b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;

(c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;

(d) Submit to the Department of the Treasury and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the Department of the Treasury finds necessary to verify the reports;

(e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;

(f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and

(g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

➔Section 5. KRS 42.4592 is amended to read as follows:

(1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 shall be allocated as follows:

(a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total coal severed in the current and preceding four (4) years in each respective county to the total coal severed statewide in the current and four (4) preceding years;

(b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal-producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:

1. Percentage of employment in mining in relation to total employment in the respective county;

2. Percentage of earnings from mining in relation to total earnings in the respective county; and

3. Surplus labor rate; and

(c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two (2) or more coal-producing counties. For purposes of this paragraph, "coal-producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.

(2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be provided by the ***Department of Workforce Investment***~~[Office of Employment and Training]~~ in the Education and Workforce Development Cabinet, and "surplus labor rate" shall be the rate published for the latest available five (5) year period by the ***Department of Workforce Investment***~~[Office of Employment and Training]~~ as provided in paragraph (b) of this subsection.

(b) 1. Each year the ***Department of Workforce Investment***~~[Office of Employment and Training]~~ shall estimate surplus labor for each county and for the Commonwealth and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.

2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the ***Department of Workforce Investment***~~[Office of Employment and Training]~~ may consult with knowledgeable individuals, including but not limited to the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

(3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

➔Section 6. KRS 45A.470 is amended to read as follows:

(1) Notwithstanding any provision of this chapter to the contrary, all governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to any products produced by Kentucky Industries for the Blind, Incorporated, or any other nonprofit corporation that furthers the purposes of KRS Chapter 163, and agencies of individuals with severe disabilities as described in KRS 45A.465.

(2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. The prices quoted by these agencies or organizations shall not exceed the current price range.

(4) The ***Office of Vocational Rehabilitation***~~[Office for the Blind]~~ within the Education and Workforce Development Cabinet and qualified agencies for individuals with severe disabilities shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.

(5) If two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

➔Section 7. KRS 132.193 is amended to read as follows:

(1) Leased personal property exempt from taxation when held by a natural person, association, or corporation in connection with a business conducted for profit, shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property, except personal property used in vending stands operated by blind persons under the auspices of the ***Division of Kentucky Business Enterprise***~~[Office for the Blind]~~.

(2) Taxes shall be assessed to lessees of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section shall not become a lien against the personal property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, city, urban-county government, charter county, consolidated local government, or unified local government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS Chapter 134.

➔Section 8. KRS 132.195 is amended to read as follows:

(1) When any real or personal property which is exempt from taxation is leased or possession is otherwise transferred to a natural person, association, partnership, or corporation in connection with a business conducted for profit, the leasehold or other interest in the property shall be subject to state and local taxation at the rate applicable to real or personal property levied by each taxing jurisdiction.

(2) Subsection (1) of this section shall not apply to interests in:

(a) Industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution;

(d) Vending stand locations and facilities operated by blind persons under the auspices of the ***Division of Kentucky Business Enterprise***~~[Office for the Blind]~~, regardless of whether the property is owned by the federal, state, or a local government;

(e) Property of any free public library; or

(f) Property in Fayette County, Kentucky, administered by the Department of Military Affairs, Bluegrass Station Division.

(3) Taxes shall be assessed to lessees of exempt real or personal property and collected in the same manner as taxes assessed to owners of other real or personal property, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS Chapter 134.

➔Section 9. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;

(c) The qualified farming operation credit permitted by KRS 141.412;

(d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

(e) The health insurance credit permitted by KRS 141.062;

(f) The tax paid to other states credit permitted by KRS 141.070;

(g) The credit for hiring the unemployed permitted by KRS 141.065;

(h) The recycling or composting equipment credit permitted by KRS 141.390;

(i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(j) The research facilities credit permitted by KRS 141.395;

(k) The employer High School Equivalency Diploma program incentive credit permitted under ***Section 39 of this Act***~~[KRS 164.0062]~~;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The clean coal incentive credit permitted by KRS 141.428;

(o) The ethanol credit permitted by KRS 141.4242;

(p) The cellulosic ethanol credit permitted by KRS 141.4244;

(q) The energy efficiency credits permitted by KRS 141.436;

(r) The railroad maintenance and improvement credit permitted by KRS 141.385;

(s) The Endow Kentucky credit permitted by KRS 141.438;

(t) The New Markets Development Program credit permitted by KRS 141.434;

(u) The distilled spirits credit permitted by KRS 141.389;

(v) The angel investor credit permitted by KRS 141.396;

(w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018; and

(x) The inventory credit permitted by KRS 141.408.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069; and

(d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305;

(c) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and

(d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;

(b) The qualified farming operation credit permitted by KRS 141.412;

(c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

(d) The health insurance credit permitted by KRS 141.062;

(e) The unemployment credit permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The coal conversion credit permitted by KRS 141.041;

(h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(j) The research facilities credit permitted by KRS 141.395;

(k) The employer High School Equivalency Diploma program incentive credit permitted by ***Section 39 of this Act***~~[KRS 164.0062]~~;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The clean coal incentive credit permitted by KRS 141.428;

(o) The ethanol credit permitted by KRS 141.4242;

(p) The cellulosic ethanol credit permitted by KRS 141.4244;

(q) The energy efficiency credits permitted by KRS 141.436;

(r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;

(s) The railroad maintenance and improvement credit permitted by KRS 141.385;

(t) The railroad expansion credit permitted by KRS 141.386;

(u) The Endow Kentucky credit permitted by KRS 141.438;

(v) The New Markets Development Program credit permitted by KRS 141.434;

(w) The distilled spirits credit permitted by KRS 141.389;

(x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018; and

(y) The inventory credit permitted by KRS 141.408.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

(a) The corporation estimated tax payment credit permitted by KRS 141.044;

(b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and

(c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

➔Section 10. KRS 141.065 is amended to read as follows:

(1) For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.

(2) There shall be allowed as a credit for any taxpayer against the tax imposed by KRS 141.020 or 141.040 and 141.0401 for any taxable year, with the ordering of the credits as provided in KRS 141.0205, an amount equal to one hundred dollars ($100) for each person hired by the taxpayer, if that person has been classified as unemployed by the Office of ***Unemployment Insurance***~~[Employment and Training]~~ of the Department of

Workforce Investment in the Education and Workforce Development Cabinet and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and if further that person has remained in the employ of the taxpayer for at least one hundred eighty (180) consecutive days during the taxable year in which the taxpayer claims the credit.

(3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:

(a) A person for whom the taxpayer receives federally funded payments for on-the-job training;

(b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of Section 267(c) of the code;

(c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of Section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or

(d) To any person who is a dependent of the taxpayer as described in code Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(4) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to that term by code Section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code Section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code Section 1563.

(5) For purposes of this section, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year.

(6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by this chapter.

(7) In the case of a pass-through entity, the amount of the credit determined under this section for any taxable year shall be applied at the entity level against the limited liability entity tax imposed by KRS 141.0401 and shall also be apportioned pro rata among the members, partners, or shareholders of the limited liability entity on the last day of the taxable year, and any person to whom an amount is so apportioned shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.

(8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.

(9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

➔Section 11. KRS 151B.020 is amended to read as follows:

(1) The Education and Workforce Development Cabinet is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, units listed in KRS 12.020, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) The Department of Workforce Investment, which is hereby created and established within the Education and Workforce Development Cabinet. The department shall be directed and managed by a commissioner who shall be appointed by the Governor under the provisions of KRS 12.040, and who

shall report to the secretary of the Education and Workforce Development Cabinet. The department shall be composed of the following offices:

1. The Office of Vocational Rehabilitation, which is created by KRS 151B.185;

2. ~~[The Office for the Blind established by KRS 163.470; and~~

~~3. ~~]~~The Office of ***Unemployment Insurance;*** ~~[Employment and Training, which is created by KRS 151B.280.]~~

3. The Office of Employer and Apprenticeship Services;

4. The Office of Career Development;

5. The Office of Adult Education, which is created by Section 45 of this Act; and

6. ~~[(b)]~~ The Unemployment Insurance Commission established by KRS 341.110***; and***

(b) The Early Childhood Advisory Council is attached to the Office of the Secretary for administrative purposes only.

(3) The executive officer of the cabinet shall be the secretary of the Education and Workforce Development Cabinet. The secretary shall be appointed by the Governor pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.

(4) The secretary of the Education and Workforce Development Cabinet and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the Education and Workforce Development Cabinet may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the Education and Workforce Development Cabinet shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs except for programs and federal funds within the authority of the Department of Education, the Kentucky Board of Education, and the Education Professional Standards Board.

➔Section 12. KRS 151B.185 is amended to read as follows:

(1) The Office of Vocational Rehabilitation is hereby created within the Education and Workforce Development Cabinet, Department of Workforce Investment. The office shall consist of an executive director and those administrative bodies and employees provided or appointed pursuant to law. The office shall be composed of the Division of ***Kentucky Business Enterprise*** ~~[Program Services]~~***, the Division of Blind Services, the Division of Field Services,*** and the Division of the Carl D. Perkins Vocational Training Center. Each division shall be headed by a director appointed by the secretary of the Education and Workforce Development Cabinet under the provisions of KRS 12.050, and shall be composed of organizational entities as deemed appropriate by the secretary of the Education and Workforce Development Cabinet.

(2) The Office of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 ***and KRS 163.450 to 163.480*** and such other functions as may be established by administrative regulation.

(3) The office shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.

(4) The chief executive officer of the office shall be the executive director of the Office of Vocational Rehabilitation. The executive director shall be appointed by the secretary of the Education and Workforce Development Cabinet under the provisions of KRS 12.050. The executive director shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the office and its employees, and shall be responsible for carrying out the programs and policies of the office.

(5) Except as otherwise provided, the office shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The office shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The Office of the Secretary of the Education and Workforce Development Cabinet is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.

(6) Employees under the jurisdiction of the Office of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

➔Section 13. KRS 151B.245 is amended to read as follows:

(1) The Statewide Council for Vocational Rehabilitation is hereby created within the Office of Vocational Rehabilitation to accomplish the purposes and functions enumerated in 29 U.S.C. sec. ***701 et seq***~~[725 (Title I, Part A, Section 105 of the Rehabilitation Act Amendments of 1998)]~~. Members of the council shall be appointed by the Governor ***pursuant to the guidelines in this section. When appointing members of the council, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the council***~~[from recommendations submitted by the Office of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities not employed by the office, as well as representatives of specified organizations, service providers, and advocacy groups. The compensation, qualifications, and terms of service of the council shall conform to the federal law]~~.

(2) ***The Statewide Council for Vocational Rehabilitation shall consist of the following members which shall serve for the following staggered initial terms but their successors shall serve for a term of three (3) years:***

(a) One (1) representative of the Statewide Independent Living Council, who shall be the chair or other designee of the Statewide Independent Living Council and who shall serve an initial term of two (2) years;

(b) One (1) representative of a parent training and information center established pursuant to Section 682(a) of the Individuals with Disabilities Education Act who shall serve an initial term of one (1) year;

(c) One (1) representative of the Client Assistance Program established under 34 C.F.R. pt. 370, who shall be designated by the employee of the Education and Workforce Development Cabinet responsible for overseeing the Client Assistance Program and who shall serve an initial term of one (1) year;

(d) One (1) representative of community rehabilitation program service providers who shall serve an initial term of three (3) years;

(e) Four (4) representatives of business, industry, and labor who shall each serve an initial term of three (3) years;

(f) One (1) representative of a disability group that includes individuals with physical, cognitive, sensory, and mental disabilities who shall serve an initial term of two (2) years;

(g) One (1) representative of a disability group that includes individuals with disabilities who have difficulty representing themselves or are unable due to their disabilities to represent themselves who shall serve an initial term of two (2) years;

(h) One (1) current or former applicant for or recipient of vocational rehabilitation services who shall serve for an initial term of one (1) year;

(i) One (1) representative of the state educational agency responsible for the public education of students with disabilities who are eligible to receive services under Part B of the Individuals with Disabilities Education Act who shall serve for an initial term of one (1) year;

(j) One (1) representative of the Kentucky Workforce Investment Board who shall serve an initial term of one (1) year;

(k) One (1) representative from the Kentucky Council for the Blind who shall serve an initial term of three (3) years;

(l) One (1) representative from the National Federation for the Blind from Kentucky who shall serve an initial term of three (3) years;

(m) One (1) representative from the Bluegrass Council of the Blind who shall serve an initial term of three (3) years;

(n) One (1) representative from the State Committee of Blind Vendors who shall serve an initial term of one (1) year;

(o) One (1) qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the council if employed by the designated state agency and who shall serve an initial term of two (2) years; and

(p) The executive director of the Office of Vocational Rehabilitation as an ex officio, nonvoting member of the council.

~~[(a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Council for Vocational Rehabilitation shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.~~

~~(b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.]~~

(3) ***The members of the council shall not be compensated for their service on the council. Council members shall be reimbursed for their necessary expenses pursuant to KRS 12.029.***~~[Each member of the Statewide Council for Vocational Rehabilitation may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Council for Vocational Rehabilitation. The per diem and expenses shall be paid out of the federal funds appropriated under Title I, Part A, of the Rehabilitation Act Amendments of 1998, Pub. L. 105-220.]~~

(4) Including the initial appointment, and with the exception of the individuals set out in paragraphs (c) and (p) of subsection (2) of this section, members shall serve no more than two (2) successive terms. A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed shall be appointed for the remainder of the predecessor's term.

(5) A chair shall be selected by the members of the council from among the voting members of the council, subject to the veto power of the Governor.

(6) No member of the council shall cast a vote on any matter that would provide direct financial benefit to the member or the member's organization or otherwise give the appearance of a conflict of interest under state law.

(7) A majority of the members of the council shall be individuals with disabilities who meet the requirements of 34 C.F.R. sec. 361.5(c)(28) and who are not employed by the designated state unit.

(8) The council shall convene at least four (4) meetings a year in locations determined by the council to be necessary to conduct council business. The meetings shall be publicly announced, open, and accessible to the general public, including individuals with disabilities, unless there is a valid reason for an executive session under the Open Meetings Act, KRS 61.805 to 61.850.

➔Section 14. KRS 151B.280 is amended to read as follows:

(1) The Office of ***Unemployment Insurance***~~[Employment and Training]~~ is created and established within the Department of Workforce Investment within the Education and Workforce Development Cabinet. The Office of ***Unemployment Insurance shall be headed by an executive director appointed by the Governor pursuant to KRS 12.050 who shall report to the commissioner of the Department of Workforce Investment.***~~[Employment and Training shall develop and operate employment development and placement programs, including job recruitment and business liaison functions, employability development and training programs, and job counseling and placement programs of the cabinet. In addition, the office shall develop and~~

~~operate all programs relating to the unemployment insurance laws of the Commonwealth, including responsibilities relating to hearing and judging unemployment insurance benefit appeals.]~~

(2) ***The Office of Employer and Apprenticeship Services is created and established within the Department of Workforce Investment within the Education and Workforce Development Cabinet. The Office of Employer and Apprenticeship Services shall be headed by an executive director appointed by the Governor pursuant to KRS 12.050 who shall report to the commissioner of the Department of Workforce Investment.***~~[The Office of Employment and Training shall be headed by an executive director appointed by the secretary with the approval of the Governor, in accordance with KRS 12.050. The executive director for employment and training shall be a person who, by experience and training in administration and management, is qualified to perform the duties of the office. The executive director for employment and training shall exercise authority over the Office of Employment and Training under the direction of the commissioner of the Department of Workforce Investment, and shall fulfill only the responsibilities delegated by the commissioner.]~~

(3) ***The Career Development Office is created and established within the Department of Workforce Investment within the Education and Workforce Development Cabinet. The Career Development Office shall be headed by an executive director appointed by the Governor pursuant to KRS 12.050 who shall report to the commissioner of the Department of Workforce Investment.***

(4) (a) The Office of Adult Education is created and established within the Department of Workforce Investment within the Education and Workforce Development Cabinet. The Office of Adult Education shall be headed by an executive director appointed by the Governor pursuant to KRS 12.050 who shall report to the commissioner of the Department of Workforce Investment.

(b) All employees of the Office of Adult Education (Kentucky Skills U) shall be unclassified employees.

(5) (a) The secretary of the Education and Workforce Development Cabinet shall develop and promulgate administrative regulations which protect the confidential nature of all records and reports of the Office of ***Unemployment Insurance, the Career Development Office, and the Office of Employer and Apprenticeship Services***~~[Employment and Training]~~ which directly or indirectly identify a client or former client and which ensure that these records are not disclosed to or by any person except and insofar as:

1. The person identified shall give his consent; or
2. Disclosure may be permitted under state or federal law.

(b) Notwithstanding any other state statute or administrative regulation to the contrary, any information concerning individual clients or applicants in the possession of the ***Department of Workforce Investment***~~[Office of Employment and Training]~~ may be shared with any authorized representative of any other state or local governmental agency, if the agency has a direct, tangible, and legitimate interest in the individual. The agency receiving the information shall assure the confidentiality of all information received. The ***Department of Workforce Investment***~~[Office of Employment and Training]~~ may share information concerning a client or applicant with any private or quasi-private agency if:

1. The agency has an agreement with the cabinet assuring the confidentiality of the information; and
2. The agency has a direct, tangible, and legitimate interest in the individual.

➔Section 15. KRS 154.10-050 is amended to read as follows:

(1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.

(2) The board shall set the salary of the secretary and up to two (2) additional executive officers of the cabinet as determined by the board, which shall be exempt from state employee salary limitations as set forth in KRS 64.640. No executive officer of the cabinet shall be paid a salary greater than that of the secretary.

(3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.

(4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

(5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(6) The secretary shall give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment within the Education and Workforce Development Cabinet.

➔Section 16. KRS 154.12-2084 is amended to read as follows:

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

(1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;

(2) "Approved costs" means:

(a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;

(c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and

(f) All other costs of a nature comparable to those described in this subsection;

(3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;

(6) "Employee" means any person:

(a) Who is currently a permanent full-time employee of the qualified company;

(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;

(c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

(d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage,

if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet.

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

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;

(10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and

(11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, as provided in KRS 154.12-2086(1).

➔Section 17. KRS 154.20-150 is amended to read as follows:

(1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before November 1 of each year, the authority shall prepare an annual report and make it available on the Cabinet for Economic Development Web siteas required by KRS 154.12-2035.The report shall include information about the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Economic Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in

which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

➔Section 18. KRS 154.20-170 is amended to read as follows:

(1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.1-010 and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(8), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.

(2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet.

➔Section 19. KRS 154.22-010 is amended to read as follows:

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

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation, if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations, if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation, a partnership, and a limited partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;

(l) A corporation and a limited liability company, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, limited partnership, and a limited liability company, if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more;

4. The new construction of an electric generation facility; and

5. The legal possession of facilities by an approved company or its affiliate pursuant to a lease having a term equal to or greater than fifteen (15) years with a third-party entity, negotiated at arm's length, if the facility will be used by the approved company to conduct the approved activity for which the inducement has been granted. An economic development project qualifying under this subparagraph shall only be eligible for credits against equipment and costs related to installation of equipment and for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080 only to the extent of twenty thousand dollars ($20,000) per job created by and maintained at the economic development project. Notwithstanding KRS 154.22-050(8) and 154.22-060, an economic development project qualifying under this subparagraph shall be eligible only for the aggregate assessments pursuant to KRS 154.22-070 withheld by the approved company each year and shall not be eligible for credit against Kentucky income tax and limited liability entity tax.

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection or this paragraph, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. and 5. of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;

(23) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS 141.0401; and

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

➔Section 20. KRS 154.22-040 is amended to read as follows:

(1) Each year, the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by ~~[the Office of Employment and Training within]~~the Department of Workforce Investment in the Education and Workforce Development Cabinet, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet;

(b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

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

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in paragraph (a)1. or 2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

(c) The requirements of this subsection shall not apply to eligible companies which are nonprofit corporations established under KRS 273.163 to 273.387 and whose employees are handicapped and sheltered workshop workers employed at less than the established minimum wage as authorized by KRS 337.295.

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

(5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days;

2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or

3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

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

➔Section 21. KRS 154.23-010 is amended to read as follows:

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

(1) "Affiliate" has the same meaning as in KRS 154.22-010;

(2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(3) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(5) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(6) "Average hourly wage" means the wage and employment data published by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment within the Education and Workforce Development Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Economic development project" or "project" means:

(a) A new or expanded service or technology activity conducted at a new or expanded site by:

1. An approved company; or

2. An approved company and its affiliate or affiliates; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(9) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(10) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(11) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(12) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(13) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(14) "Local government" means a city, county, or urban-county government;

(15) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(18) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(20) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(21) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arm's length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

(22) "Service and technology agreement" means any agreement entered into under KRS 154.23-040 on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(23) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction,

manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

(24) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;

(25) "Tax incentive agreement" means that agreement entered into pursuant to KRS 154.23-035 between the authority and an approved company with respect to an economic development project;

(26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

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

➔Section 22. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) If decertification causes a formerly certified contiguous census tract to become noncontiguous, the applicant shall have the discretion to eliminate or maintain the noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may replace the noncontiguous tract with another qualifying census tract, subject to approval of the authority.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

➔Section 23. KRS 154.24-010 is amended to read as follows:

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

(1) "Affiliate" has the same meaning as in KRS 154.22-010;

(2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(7) "Average hourly wage" means the wage and employment data published by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment within the Education and Workforce Development Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic development project" or "project" means a new or expanded service or technology activity conducted at a new or expanded site by:

(a) An approved company; or

(b) An approved company and its affiliate or affiliates;

(10) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15) "Inducements" means the tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(19) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state unless seventy-five percent (75%) of the services provided by the eligible company from the project are provided to persons located outside the Commonwealth during the period in which it receives the inducements authorized in KRS 154.24-110; and

(20) "Start-up costs" means the acquisition cost associated with the project related to the furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, the relocation of out-of-state equipment, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

➔Section 24. KRS 154.28-010 is amended to read as follows:

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

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" has the same meaning as in KRS 154.22-010;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by KRS 154.28-010 to 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the wage and employment data published by the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The legal possession of facilities by an approved company or its affiliate pursuant to a lease having a term equal to or greater than ten (10) years with a third-party entity, negotiated at arm's length, if the facility will be used by the approved company to conduct the approved activity for which the inducement has been granted. An economic development project qualifying under this subparagraph shall only be eligible for credits against equipment and costs related to installation of equipment and for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090 only to the extent of twenty thousand dollars ($20,000) per job created by and maintained at the economic development project. Notwithstanding KRS 154.28-090, an economic development project qualifying under this subparagraph shall be eligible only for the

aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year and shall not be eligible for credit against Kentucky income tax and limited liability entity tax.

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraph (a)3. and 4. of this subsection and this paragraph, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of twenty thousand dollars ($20,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(18) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS 141.0401; and

(19) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS 141.0401.

➔Section 25. KRS 154.32-050 is amended to read as follows:

(1) The authority shall identify and certify or decertify enhanced incentive counties on an annual basis as provided in this section.

(2) Each fiscal year, the authority shall:

(a) Obtain from the ~~[Office of Employment and Training within the]~~Department of Workforce Investment in the Education and Workforce Development Cabinet, the final unemployment figures for the prior calendar year for each county and for the Commonwealth as a whole;

(b) Identify those counties which have had:

1. A countywide unemployment rate that exceeds the statewide unemployment rate in the most recent five (5) consecutive calendar years; or

2. An average countywide rate of unemployment exceeding the statewide unemployment rate by two hundred percent (200%) in the most recent calendar year; and

(c) Certify the counties identified in paragraph (b) of this subsection as enhanced incentive counties.

(3) A county not certified under subsection (2) of this section may also be certified by the authority as an enhanced incentive county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, using the information obtained under subsection (2)(a) of this section;

(b) The percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) The quality of the roads in the county. Quality of roads shall be determined by the access within a county to roads, ranked in descending order from best quality to worst quality, as certified to the authority by the Kentucky Transportation Cabinet as follows:

1. Two (2) or more interstate highways;

2. One (1) interstate highway;

3. A state four (4) lane parkway;

4. A four (4) lane principal arterial access to an interstate highway;

5. A state two (2) lane parkway; and

6. None of the preceding road types.

(4) (a) If the authority determines that an enhanced incentive county no longer meets the criteria to be certified as an enhanced incentive county under this section, the authority shall decertify that county.

(b) Any economic development project located in an enhanced incentive county that was decertified by the authority after May 1, 2009, shall have until July 1 of the third year following the fiscal year in which the county was decertified to obtain final approval from the authority.

(5) (a) As used in this subsection, "industrial park" means a regional industrial park as defined in KRS 42.4588, or an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245.

(b) An economic development project undertaken in an industrial park that is located in two (2) or more counties, one (1) of which is an enhanced incentive county, may be approved for the enhanced incentive county incentives set forth in this subchapter.

➔Section 26. KRS 156.848 is amended to read as follows:

(1) The ***executive director of the Office of Adult Education within the Department of Workforce Investment in the Education and Workforce Development Cabinet***~~[vice president of the Kentucky Adult Education Program in the Council on Postsecondary Education]~~ and the commissioner of education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate agency head. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The ***executive director***~~[vice president]~~ and the commissioner of education may approve authorization for his or her agency to enter into agreements with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

➔Section 27. KRS 158.146 is amended to read as follows:

(1) No later than December 30, 2000, the Kentucky Department of Education shall establish and implement a comprehensive statewide strategy to provide assistance to local districts and schools to address the student

dropout problem in Kentucky public schools. In the development of the statewide strategy, the department shall engage private and public representatives who have an interest in the discussion. The statewide strategy shall build upon the existing programs and initiatives that have proven successful. The department shall also take into consideration the following:

(a) Analyses of annual district and school dropout data as submitted under KRS 158.148 and 158.6453;

(b) State and federal resources and programs, including, but not limited to, extended school services; early learning centers; family resource and youth service centers; alternative education services; preschool; service learning; drug and alcohol prevention programs; School-to-Careers; High Schools that Work; school safety grants; and other relevant programs and services that could be used in a multidimensional strategy;

(c) Comprehensive student programs and services that include, but are not limited to, identification, counseling, mentoring, and other educational strategies for elementary, middle, and high school students who are demonstrating little or no success in school, who have poor school attendance, or who possess other risk factors that contribute to the likelihood of their dropping out of school; and

(d) Evaluation procedures to measure progress within school districts, schools, and statewide.

(2) No state or federal funds for adult education and literacy, including but not limited to funds appropriated under ***Section 49 of this Act***~~[KRS 164.041]~~ or 20 U.S.C. secs. 9201 et seq., shall be used to pay for a high school student enrolled in an alternative program operated or contracted by a school district leading to a certificate of completion or a High School Equivalency Diploma.

(3) The department, with assistance from appropriate agencies, shall provide technical assistance to districts requesting assistance with dropout prevention strategies and the development of district and schoolwide plans.

(4) The department shall award grants to local school districts for dropout prevention programs based upon available appropriations from the General Assembly and in compliance with administrative regulations promulgated by the Kentucky Board of Education for this purpose. Seventy-five percent (75%) of the available dropout funds shall be directed to services for at-risk elementary and middle school students, including, but not limited to, identification, counseling, home visitations, parental training, and other strategies to improve school attendance, school achievement, and to minimize at-risk factors. Twenty-five percent (25%) of the funds shall be directed to services for high school students identified as likely to drop out of school, including, but not limited to, counseling, tutoring, extra instructional support, alternative programming, and other appropriate strategies. Priority for grants shall be awarded to districts that average, over a three (3) year period, an annual dropout rate exceeding five percent (5%).

(5) The department shall disseminate information on best practices in dropout prevention in order to advance the knowledge for district and school level personnel to address the dropout problem effectively.

➔Section 28. KRS 158.360 is amended to read as follows:

(1) The ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the program.

(2) The services shall:

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of under education and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services.

➔Section 29. KRS 158.842 is amended to read as follows:

(1) As used in KRS 158.840 to 158.844, unless the context requires otherwise:

(a) "Concepts" means mathematical ideas that serve as the basis for understanding mathematics;

(b) "Mathematics" means the curriculum of numbers and computations, geometry and measurements, probability and statistics, and algebraic ideas;

(c) "Mathematics coach" means a mathematics leader whose primary responsibility is to provide ongoing support for one (1) or more mathematics teachers. The role of the coach is to improve mathematics teaching practices by working with teachers in their classrooms, observing and providing feedback to them, modeling appropriate teaching practices, conducting workshops or institutes, establishing learning communities, and gathering appropriate and useful resources;

(d) "Mathematics diagnostic assessment" means an assessment that identifies a student at risk of failure in mathematics or a student with major deficits in numeracy and other mathematical concepts and skills;

(e) "Mathematics intervention program" means an intensive instructional program that is based on valid research and is provided by a highly trained teacher to specifically meet individual students' needs;

(f) "Mathematics leader" means any educator with a specialization in mathematics who:

1. Serves in a supervisory capacity, such as mathematics department chair, school-based mathematics specialist, or district mathematics supervisor or coordinator; or

2. Regularly conducts or facilitates teacher professional development, such as higher education faculty or other mathematics teachers;

(g) "Mathematics mentor" means an experienced mathematics coach who typically works with beginning or novice teachers only. The responsibilities and roles of the mentor are the same as those of the coach;

(h) "Numeracy" means the development of the basic concepts which include counting, place value, addition and subtraction strategies, multiplication and division strategies, and the concepts of time, money, and length. To be numerate is to have and be able to use appropriate mathematical knowledge, concepts, skills, intuition, and experience in relationship to every day life;

(i) "Relationships" means connections of mathematical concepts and skills within mathematics; and

(j) "Skills" means actions of mathematics.

(2) The Committee for Mathematics Achievement is hereby created for the purposes of developing a multifaceted strategic plan to improve student achievement in mathematics at all levels of schooling, prekindergarten through postsecondary and adult. At a minimum the plan shall address:

(a) Challenging curriculum that is aligned prekindergarten through postsecondary, including consensus among high school teachers and postsecondary education faculty about expectations, curriculum, and assessment;

(b) Attitudes and beliefs of teachers about mathematics;

(c) Teachers' knowledge of mathematics;

(d) Diagnostic assessment, intervention services, and instructional strategies;

(e) Shortages of teachers of mathematics, including incentives to attract strong candidates to mathematics teaching;

(f) Statewide institutes that prepare cadres of mathematics leaders in local school districts, which may include highly skilled retired mathematics teachers, to serve as coaches and mentors in districts and schools;

(g) Cohesive continuing education options for experienced mathematics classroom teachers;

(h) Closing the student achievement gap among various student subpopulations;

(i) Curriculum expectations and assessments of students among the various school levels, prekindergarten, primary, elementary, middle, and high school;

(j) Content standards for adult education centers providing mathematics curricula;

(k) Introductory postsecondary education mathematics courses that are appropriate to the wide array of academic programs and majors;

(l) Research to analyze further the issues of transition from high school or High School Equivalency Diploma programs to postsecondary education mathematics; and

(m) The early mathematics testing program under KRS 158.803.

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

(3) In carrying out its responsibility under subsection (2)(f) of this section, the committee shall:

(a) Design a statewide professional development program that includes summer mathematics institutes at colleges and universities, follow-up, and school-based support services, beginning no later than June 1, 2006, to prepare teams of teachers as coaches and mentors of mathematics at all school levels to improve student achievement. Teachers shall receive training in diagnostic assessment and intervention. The statewide initiative shall be funded, based on available funds, from the Teachers' Professional Growth Fund described in KRS 156.553. The design shall:

1. Define the curricula focus;

2. Build on the expertise of specific colleges and universities;

3. Place emphasis on mathematics concepts, skills and relationships, diagnostic assessment, intervention services, and instructional strategies;

4. Identify quality control measures for the delivery of each institute;

5. Establish evaluation procedures for the summer institutes and the other professional development components;

6. Provide updates and networking opportunities for coaches and mentors throughout the school year; and

7. Define other components within the initiative that are necessary to meet the goal of increasing student achievement in mathematics;

(b) Require schools and districts approved to have participants in the mathematics leader institutes to provide assurances that:

1. The district and schools have, or will develop, local mathematics curricula and assessments that align with state standards for mathematics;

2. There is a local commitment to build a cadre of mathematics leaders within the district;

3. The district and participating schools will provide in-school support for coaching and mentoring activities;

4. The mathematics teachers are willing to develop classroom assessments that align with state assessments; and

5. Students who need modified instructional and intervention services will have opportunity for continuing education services beyond the regular school day, week, or year; and

(c) In addition to the conditions specified in paragraph (b) of this subsection, the committee shall make recommendations to the Kentucky Department of Education and the Kentucky Board of Education for criteria to be included in administrative regulations promulgated by the board which define:

1. Eligible grant recipients, taking into consideration how this program relates to other funded mathematics initiatives;

2. The application process and review;

3. The responsibilities of schools and districts, including but not limited to matching funds requirements, released or extended time for coaches and mentors during the school year, continuing education requirements for teachers and administrators in participating schools, data to be collected, and local evaluation requirements; and

4. Other recommendations requested by the Kentucky Department of Education.

(4) The committee shall initially be composed of twenty-five (25) members as follows:

(a) The commissioner of education or his or her designee;

(b) The president of the Council on Postsecondary Education or his or her designee;

(c) The president of the Association of Independent Kentucky Colleges and Universities or his or her designee;

(d) The executive director of the Education Professional Standards Board or his or her designee;

(e) The secretary of the Education and Workforce Development Cabinet or his or her designee;

(f) A representative with a specialty in mathematics or mathematics education who has expertise and experience in professional development, especially with coaching and mentoring of teachers, from each of the nine (9) public postsecondary education institutions defined in KRS 164.001. The representatives shall be selected by mutual agreement of the president of the Council on Postsecondary Education and the commissioner of education;

(g) Two (2) adult education instructors selected by the ***secretary of the Education and Workforce Development Cabinet***~~[vice president for Kentucky Adult Education]~~;

(h) Two (2) elementary, two (2) middle, and two (2) high school mathematics teachers, appointed by the board of the statewide professional education association having the largest paid membership with approval from their respective local principals and superintendents of schools; and

(i) Three (3) school administrators, with one (1) each representing elementary, middle, and high school, appointed by the board of the statewide administrators' association having the largest paid membership with approval from their respective local superintendents of schools.

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

(5) A majority of the full membership shall constitute a quorum.

(6) Each member of the committee, other than members who serve by virtue of their positions, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that the initial appointments shall be made in the following manner: six (6) members shall serve a one (1) year term, six (6) members shall serve a two (2) year term, and eight (8) members shall serve a three (3) year term.

(7) A temporary chair of the committee shall be appointed prior to the first meeting of the committee through consensus of the president of the Council on Postsecondary Education and the commissioner of education, to serve ninety (90) days after his or her appointment. Prior to the end of the ninety (90) days, the committee shall elect a chair by majority vote. The temporary chair may be a nominee for the chair by majority vote. Thereafter, a chair shall be elected each calendar year. An individual may not serve as chair for more than three (3) consecutive years. The chair shall be the presiding officer of the committee, and coordinate the functions and activities of the committee.

(8) The committee shall be attached to the Kentucky Department of Education for administrative purposes. The commissioner of education may contract with a mathematics-trained professional to provide part-time staff support to the committee. The commissioner of education and the president of the council shall reach consensus in the selection of a person to fill the position. The person selected shall have a graduate degree, a mathematics major, and teaching or administrative experience in elementary and secondary education. The person shall not be a current employee of any entity represented on the committee. The department shall provide office space and other resources necessary to support the staff position and the work of the committee.

(9) The committee, under the leadership of the chair, may organize itself into appropriate subcommittees and work structures to accomplish the purposes of the committee.

(10) Members of the committee shall serve without compensation but shall be reimbursed for necessary travel and expenses while attending meetings at the same per diem rate promulgated in administrative regulation for state employees under provisions of KRS Chapter 45. Funds shall be provided school districts to cover the cost of substitute teachers for those teachers on the committee at each district's established rate for substitute teachers.

(11) If a vacancy occurs within the committee during its duration, the board of the statewide professional education association having the largest paid membership or the board of the statewide administrators association having the largest paid membership or the president of the Council on Postsecondary Education, as appropriate, shall appoint a person to fill the vacancy.

(12) The committee shall:

(a) Present a draft strategic plan addressing the requirements in subsection (1) of this section and other issues that arose during the work of the committee to the Education Assessment and Accountability Review Subcommittee no later than August 2005;

(b) Present the strategic plan for improving mathematics achievement to the Interim Joint Committee on Education by July 15, 2006, which shall include any recommendations that require legislative action; and

(c) Provide a final written report of committee activities to the Interim Joint Committee on Education and the Legislative Research Commission by December 1, 2006.

(13) The committee shall have ongoing responsibility for providing advice and guidance to policymakers in the development of statewide policies and in the identification and allocation of resources to improve mathematics achievement. In carrying out this responsibility, the committee shall periodically review the strategic plan and make modifications as deemed appropriate and report those to the Interim Joint Committee on Education.

(14) The committee shall collaborate with the Center for Mathematics to ensure that there is ongoing identification of research-based intervention programs for K-12 students who have fallen behind in mathematics, rigorous mathematics curricula that prepare students for the next level of schooling, research-based professional development models that prepare teachers in mathematics and pedagogy, and strategies for closing the gap between high school or a High School Equivalency Diploma program and postsecondary mathematics preparation.

➔Section 30. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or High School Equivalency Diploma, or he shows progress toward obtaining a High School Equivalency Diploma. To show progress toward obtaining a High School Equivalency Diploma, a person shall be enrolled in a High School Equivalency Diploma program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the ***Education and Workforce Development Cabinet***~~[Council on Postsecondary Education]~~.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a High School Equivalency Diploma to enroll in a program to obtain a High School Equivalency Diploma.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.

(7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9) Local school boards shall develop and provide to all classified employees written policies which shall include but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include but not be limited to suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR). If suicide prevention training is offered it may be accomplished through self-study review of suicide prevention materials.

(11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

➔Section 31. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.220 to 161.716 and 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, employees participating in the system pursuant to KRS 196.167(3)(b)1., and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included, except as limited by KRS 161.612. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;

(h) The Office of Career and Technical Education, except that the executive director shall not be a member;

(i) The Office of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member, except that any person who retires on or after January 1, 2019, shall upon reemployment after retirement not earn a second retirement account;

(m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.235, 161.540, and 161.620;

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and

Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(p) Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional job classification as defined by the department;~~[and]~~

(q) The Governor's School for Entrepreneurs Program***; and***

(r) Employees of the Office of Adult Education within the Department of Workforce Investment in the Education and Workforce Development Cabinet who were employees of the Council on Postsecondary Education, Kentucky Adult Education Program and who were members of the Kentucky Teachers' Retirement System at the time the program was transferred to the cabinet pursuant to Executive Orders 2019-0026 and 2019-0027.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave if the individual becomes a member before July 1, 2008, or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service as provided by KRS 161.155;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the

retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation. For an individual who becomes a member on or after July 1, 2008, annual compensation shall not include lump-sum payments upon termination of employment for accumulated annual or compensatory leave;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum, except:

(a) For an individual who becomes a member on or after July 1, 2008, but prior to January 1, 2019, "regular interest" means interest at two and one-half percent (2.5%) per annum for purposes of crediting interest to the teacher savings account or any other contributions made by the employee that are refundable to the employee upon termination of employment; and

(b) For an individual who becomes a member on or after January 1, 2019, who is participating in the hybrid cash balance plan, "regular interest" means the regular interest credited to the member's accumulated account balance as provided by KRS 161.235;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400;

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick leave authorized by KRS 161.155, annual, personal, and compensatory leave, and any

other lump-sum payment. For an individual who becomes a member on or after July 1, 2008, payments for annual or compensatory leave shall not be included in determining the member's last annual compensation;

(24) "Participant" means a member, as defined by subsection (4) of this section, or an annuitant, as defined by subsection (15) of this section;

(25) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

(26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

(27) "University member" means an individual who becomes a member through employment with an employer specified in subsection (4)(b) and (n) of this section;

(28) "Nonuniversity member" means an individual who becomes a member through employment with an employer specified under subsection (4) of this section, except for those members employed by an employer specified in subsection (4)(b) and (n) of this section;

(29) "Accumulated employer credit" means the employer pay credit deposited to the member's account and regular interest credited on such amounts as provided by KRS 161.235; and

(30) "Accumulated account balance" means:

(a) For members who began participating in the system prior to January 1, 2019, the member's accumulated contributions; or

(b) For members who began participating in the system on or after January 1, 2019, in the hybrid cash balance plan as provided by KRS 161.235, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.

➔Section 32. KRS 163.460 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Office" means the Office~~[for the Blind]~~ ***of Vocational Rehabilitation, or the duly authorized division within the Office of Vocational Rehabilitation***;

(2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with correction or a visual field of 20 degrees or less;

(3) "Visually impaired" means a condition of the eye with correction which constitutes or progressively results for the individual in a substantial disability to employment; and

(4) "Executive director" means the executive director of the Office ***of Vocational Rehabilitation or the director of the duly authorized division within the Office of Vocational Rehabilitation***~~[for the Blind]~~.

➔Section 33. KRS 163.470 is amended to read as follows:

(1) ~~[There is created within the Education and Workforce Development Cabinet the Office for the Blind.~~

~~(2) ~~]~~The executive director shall be appointed by the secretary of the Education and Workforce Development Cabinet pursuant to KRS 12.050.

(2)~~[(3)]~~ The office shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The office shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the Education and Workforce Development Cabinet is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the executive director.

(3)~~[(4)(a) The Kentucky Office for the Blind State Rehabilitation Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended. Members of the council shall be appointed by the Governor from recommendations submitted by the~~

~~Office for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.~~

~~(b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy occurring in the membership of the Office for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.~~

~~2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.~~

~~(c) Each member of the Office for the Blind State Rehabilitation Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Office for the Blind State Rehabilitation Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended.~~

~~(5)~~] The office shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(4)[~~(6)~~] At the close of each biennium, the office shall prepare a financial report and present it to the secretary of the Education and Workforce Development Cabinet and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the office and contain necessary suggestions for improvement.

(5)[~~(7)~~] The office shall coordinate its functions with other appropriate public and private agencies.

(6)[~~(8)~~] The office shall perform all other duties as required of it by law.

(7)[~~(9)~~] The executive director shall hire personnel as necessary to carry out the work of the office and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons.

(8) ~~[(10) There shall be created under the authority of the office, to be directed by a director appointed by the secretary of the Education and Workforce Development Cabinet pursuant to KRS 12.050, a Division of Consumer Services which]~~***The Office of Vocational Rehabilitation*** shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(9)[~~(11)~~] There shall be established under the authority of the office, to be directed by a director appointed by the secretary pursuant to KRS 12.050, the Division of Kentucky Business Enterprise. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the office shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The office ~~[for the Blind]~~shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over t4he property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(10) ~~[(12)]~~ The office~~[for the Blind]~~, at all times, shall be authorized to provide industrial evaluation, training, and employment. The office shall provide staff services which shall include staff development and training, program development and evaluation, and other staff services as may be deemed necessary.

(11) ~~[(13)]~~ The provisions of any other statute notwithstanding, the executive director is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

➔Section 34. KRS 163.475 is amended to read as follows:

(1) The General Assembly finds that the provision of industrial evaluation, training, and employment opportunities for individuals who are blind or visually impaired is a valuable and necessary component of vocational rehabilitation services. The office ~~[for the Blind]~~has sole responsibility for and the obligation to operate and manage a Division of the Kentucky Industries for the Blind. This facility has struggled to meet these mandates but, faced with declining available state revenues, expects a continual diminishment to a submarginal operation with respect to providing viable long-term employment opportunities that are self-sustaining and sufficiently diversified for individuals who are blind or visually impaired.

(2) The General Assembly finds that increased flexibility in contract negotiation, purchasing, and hiring will enhance the competitiveness of the Kentucky Industries for the Blind, resulting in additional production contracts thereby guaranteeing continued and expanded jobs and other opportunities for individuals who are blind or visually impaired. This flexibility and competitiveness can be achieved through the operation of the Kentucky Industries for the Blind by a nonprofit corporation, the members of which have expertise in management skills and background pertaining to sound business practices and rehabilitation philosophy.

(3) The General Assembly finds that a transition period from state division to a nonprofit operation is necessary to ensure the success and continuation of the important functions of the Kentucky Industries for the Blind. Therefore, the General Assembly shall continue to support the Division of the Kentucky Industries for the Blind through appropriations to the office~~[for the Blind]~~ for six (6) years in order to eliminate eventually the necessity for annual state appropriations. The office~~[for the Blind]~~ shall monitor and safeguard the expenditure of those public moneys for the use and benefit of the Kentucky Industries for the Blind and citizens who are blind and visually impaired in the Commonwealth.

(4) The General Assembly finds that the continued employment of current employees of the Division of the Kentucky Industries for the Blind is a necessary and important outcome. The office~~[for the Blind]~~ shall ensure through contractual provisions that the nonprofit corporation it contracts with pursuant to KRS 163.480(2) offers employment to every employee of the Kentucky Industries for the Blind at the time the nonprofit corporation assumes total responsibility for the operation of the workshop. The office~~[for the Blind]~~ shall maximize the retirement benefits for each current employee of the Division of Kentucky Industries for the Blind at the time the office contracts for total operation by the nonprofit corporation through the parted employer provisions of KRS 61.510 to 61.705.

(5) The General Assembly finds that at the time the Kentucky Industries for the Blind is operated totally by the nonprofit corporation, the office~~[for the Blind]~~ shall have the authority to convey ownership of the workshop to any nonprofit corporation with which it contracts pursuant to KRS 163.480(2) without financial consideration, including real and personal property, inventory of materials, and stores for resale. The instrument of conveyance to such nonprofit corporation shall provide that the real property and production equipment conveyed, or sufficient remuneration therefor, shall revert to the state at any time the nonprofit corporation or its successor shall cease operating the Kentucky Industries for the Blind for the benefit of individuals who are blind or visually impaired.

➔Section 35. KRS 163.480 is amended to read as follows:

(1) The office~~[for the Blind]~~ may contract, to the extent funds are available under this chapter and under conditions and standards established by the office, with any nonprofit corporation able to provide expertise in the operation of workshops for and rehabilitation of individuals who are blind or visually impaired and whose objectives are to carry out the purposes of KRS 163.470 ***(10)*** ~~[(12)]~~.

(2) The office~~[for the Blind]~~ shall contract with a nonprofit corporation, effective July 1, 2000, to provide industrial evaluation, training, and employment opportunities for individuals who are blind or visually impaired.

➔Section 36. KRS 163.487 is amended to read as follows:

As used in KRS 163.485 to 163.489, unless the context requires otherwise:

(1) "Accessible electronic information service" means news and other timely information, including but not limited to magazines, newsletters, schedules, announcements, and newspapers, provided to eligible individuals using high-speed computers, radios, and telecommunications technology for acquisition of content and rapid distribution in a form appropriate for use by those individuals; and

(2) "Blind and disabled persons" means those individuals who are eligible for library loan services through the Library of Congress and the office~~[for the Blind]~~ pursuant to 36 C.F.R. sec. 701.10(b).

➔Section 37. KRS 163.489 is amended to read as follows:

(1) The Accessible Electronic Information Service Program is created and shall be provided by the office~~[for the Blind]~~. The program shall include:

(a) Intrastate access for eligible persons to read audio editions of newspapers, magazines, newsletters, schedules, announcements, and other information using a touch-tone telephone, radio, or other technologies that produce audio editions by use of computer; and

(b) A means of program administration and reader registration on the Internet, or by mail, telephone, or any other method providing consumer access.

(2) The program shall:

(a) Provide accessible electronic information services for all eligible blind and disabled persons as defined by KRS 163.487(2); and

(b) Make maximum use of available state, federal, and other funds by obtaining grants or in-kind support from appropriate programs and securing access to low-cost interstate rates for telecommunications by reimbursement or otherwise.

(3) The office~~[for the Blind]~~ shall review new technologies and current service programs in Kentucky for the blind and visually impaired that are available to expand audio communication if the office determines that these new technologies will expand access to consumers in a cost-efficient manner. The office may implement recommendations from the ***Statewide Council for Vocational Rehabilitation***~~[Office for the Blind State Rehabilitation Council]~~ for improving the program.

➔Section 38. KRS 164.006 is repealed and reenacted as a new section of KRS Chapter 151B to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) The economic future of the Commonwealth and the prosperity of its citizens depend on the ability of Kentucky businesses to compete effectively in the world economy;

(2) A well-educated and highly trained workforce provides businesses in the Commonwealth with the competitive edge critical for their success; and

(3) Too many adult Kentuckians are not full participants in the labor pool because they lack a high school diploma, its equivalent, or the workplace knowledge necessary to assure self-sufficiency for themselves and their families.

➔Section 39. KRS 164.0062 is repealed, reenacted as a new section of KRS Chapter 151B, and amended to read as follows:

(1) The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a High School Equivalency Diploma. Incentives shall be provided to full-time employees who complete a High School Equivalency Diploma program within one (1) year and their employers.

(2)~~[(1)]~~ The ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ within the ***Department of Workforce Investment in the Education and Workforce Development Cabinet***~~[Council on Postsecondary Education]~~ shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include but not be limited to the criteria for:

(a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;

(b) Attendance reports that validate that the student is enrolled and studying for the High School Equivalency Diploma during the release time from work; ***and***

(c) Final reports that qualify the student for the tuition discounts under subsection ***(3)***~~[(2)]~~(a) of this section and that qualify the employer for tax credits under subsection ***(4)***~~[(3)]~~ of the section.

(3)~~[(2)]~~ (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the High School Equivalency Diploma program, and successfully earns a High School Equivalency Diploma shall earn a tuition discount of two hundred fifty dollars ($250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

(b) The program shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.

(4)~~[(3)]~~ An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state tax credit against the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205 for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars ($1250).

➔Section 40. KRS 164.0064 is repealed, reenacted as a new section of KRS Chapter 151B, and amended to read as follows:

(1) The ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ within the ***Department of Workforce Investment in the Education and Workforce Development Cabinet***~~[Council on Postsecondary Education]~~ shall promulgate administrative regulations to establish programs aligned with the College and Career Readiness Standards for Adult Education, or any other similar standards adopted by the federal Office of Career, Technical, and Adult Education, which upon successful completion, shall result in the issuance of a High School Equivalency Diploma.

(2) At least one (1) program authorized under subsection (1) of this section shall include a test aligned with the College and Career Readiness Standards for Adult Education, or any other standards adopted by the federal Office of Career, Technical, and Adult Education, to serve as a qualifying test, which upon passing, shall entitle students to receive a High School Equivalency Diploma.

(3) For purposes of any public employment, a High School Equivalency Diploma shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.

(4) A High School Equivalency Diploma shall be issued without charge upon successfully completing a High School Equivalency Diploma program. A fee may be assessed by the ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ for the issuance of a duplicate High School Equivalency Diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.

(5) The ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring High School Equivalency Diploma program examinations.

(6) On June 29, 2017, any high school equivalency diploma or external diploma previously recognized or issued by the Commonwealth shall be considered retroactively as a High School Equivalency Diploma.

(7) Upon issuance, a High School Equivalency Diploma shall not be invalidated by any subsequent changes in test selection under this section.

➔Section 41. KRS 164.007 is repealed, reenacted as a new section of KRS Chapter 151B, and amended to read as follows:

As used in ***Sections 39, 40, 46, and 47 of this Act***~~[KRS 164.0062, 164.0064, 164.0232, and 164.0234]~~, unless the context indicates otherwise:

(1) "Adult education" means, for programs funded under the federal Workforce ***Innovation and Opportunity Act***~~[Investment Act of 1998]~~, services or instruction below the postsecondary level for individuals:

(a) Who have attained the age of sixteen (16) years of age;

(b) Who are not enrolled or required to be enrolled in secondary school under state law; and

(c) Who:

1. Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

2. Are unable to speak, read, or write the English language; or

3. Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education;

(2) "Family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist a family to make sustainable increases in its literacy level, and integrate the activities described in KRS 158.360; and

(3) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential.

➔Section 42. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) (a) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent, except that the Kentucky Community and Technical College System may assess a mandatory student fee not to exceed eight dollars ($8) per credit hour to be used exclusively for debt service on amounts not to exceed seventy-five percent (75%) of the total projects cost of the Kentucky Community and Technical College System agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.

(b) The Kentucky Community and Technical College System mandatory fee established in this subsection shall only be used for debt service on agency bond projects.

(c) Any fee established as provided by this subsection shall cease to be assessed upon the retirement of the project bonds for which it services debt.

(d) Prior to the issuance of any bonds, the Kentucky Community and Technical College System shall certify in writing to the secretary of the Finance and Administration Cabinet that sufficient funds have been raised to meet the local match equivalent to twenty-five percent (25%) of the total project cost;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes~~[including but not limited to appropriations to the Kentucky Adult Education Program]~~. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

(14) Establish course credit, transfer, and degree components as required in KRS 164.2951;

(15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;

(23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(25) (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:

1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ethical considerations arising from board membership, and the board member removal and replacement provisions of KRS 63.080;

2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;

3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and

4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;

(b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and

(c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;

(26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(27) Select and appoint a president of the council under KRS 164.013;

(28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;

(32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(33) Develop a statewide policy to promote employee and faculty development in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term. The employee shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. The amount of tuition waived shall not exceed the cost of tuition at the institution less any state or federal grants received, which shall be credited first to the student's tuition;

(34) ~~[Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:~~

~~(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;~~

~~(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;~~

~~(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;~~

~~(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and~~

~~(e) Administer the adult education and literacy initiative fund created under KRS 164.041;~~

~~(35)]~~Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;

(35) ~~[(36)]~~ Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(l);

(36) ~~[(37)]~~ Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133;

(37) ~~[(38)]~~ Pursuant to KRS 63.080, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and

(38) ~~[(39)]~~ Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 43. KRS 164.0203 is amended to read as follows:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).

(2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education and adult education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education and adult education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions and providers that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.

(3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.

(5) The council shall develop benchmarks using criteria that shall include but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency, including but not limited to those set forth in KRS 164.095.

(6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.

(7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.

(8) The strategic agenda shall include a long-term strategy, developed in partnership with the ***Office of Adult Education*** ~~[Kentucky Adult Education Program]~~, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.

➔Section 44. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available professional development for educators in reliable, replicable research-based reading programs, and to promote literacy development, including cooperating with other entities that provide family literacy services. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about programs addressing reading and literacy from early childhood and the elementary grades (P-5) through adult education;

(b) Providing advice to the Kentucky Board of Education regarding the Reading Diagnostic and Intervention Grant Program established in KRS 158.792 and in other matters relating to reading;

(c) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development relating to reading diagnostic assessments and intervention and to the essential components of successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and the connections between writing and reading acquisition and motivation to read;

(d) Collaborating with the Kentucky Department of Education to assist districts with students functioning at low levels of reading skills to assess and address identified literacy needs;

(e) Providing professional development and coaching for early childhood educators and classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading programs. The professional development shall utilize technology when appropriate;

(f) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;

(g) Maintaining a demonstration and training site for early literacy located at each of the public universities;

(h) Assisting middle and high schools in the development of comprehensive adolescent reading plans and maintaining a repository of instructional materials or summary materials that identify comprehension best practices in the teaching of each subject area and a list of classroom-based diagnostic reading comprehension assessments that measure student progress in developing students' reading comprehension skills; and

(i) Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under ***Section 49 of this Act*** ~~[KRS 164.041]~~.

(2) The center shall review national research and disseminate appropriate research abstracts, when appropriate, as well as conduct ongoing research of reading programs throughout the state. Research activities undertaken by the center shall consist of descriptive as well as empirical studies.

(a) The center may contract for research studies to be conducted on its behalf.

(b) The research agenda should, at a minimum, consider the impact of various reading and intervention programs:

1. In eliminating academic achievement gaps among students with differing characteristics, including subpopulations of students with disabilities, students with low socioeconomic status, students from racial minority groups, students with limited English proficiency, and students of different gender;

2. In schools with differing characteristics, such as urban versus rural schools, poverty versus nonpoverty schools, schools with strong library media center programs versus schools with weak library media center programs, and schools in different geographic regions of the state;

3. In terms of their costs and effectiveness; and

4. In maintaining positive student progress over a sustained period of time.

(3) The center shall submit an annual report of its activities to the Kentucky Department of Education, the Governor, and the Legislative Research Commission no later than September 1 of each year.

(4) With advice from the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location. The center, in conjunction with the council, shall establish goals and performance objectives related to the functions described in this section.

➔Section 45. KRS 164.023 is repealed, reenacted as a new section of KRS Chapter 151B, and amended to read as follows:

(1) The ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ is created ***within the Department of Workforce Investment in the Education and Workforce Development Cabinet*** to carry out the statewide adult education mission. The ***office***~~[program]~~ shall implement a twenty (20) year state strategy to reduce the number of adults who are at the lowest levels of literacy and most in need of adult education and literacy services. The ***office***~~[program]~~ shall have responsibility for all functions related to adult education and literacy. ***The office shall:***

(a) Promote coordination of programs and responsibilities linked to the issue of adult education with other agencies and institutions;

(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

(e) Administer the adult education and literacy initiative fund created under Section 49 of this Act.

(2) The ***Office of Adult Education***~~[Kentucky Adult Education Program is part of the Council on Postsecondary Education and]~~ shall be organized in a manner as directed by the ***secretary of the Education and Workforce Development Cabinet***~~[president of the Council on Postsecondary Education]~~. The ***office***~~[program]~~ shall be headed by ***an executive director***~~[a vice president]~~ appointed by the ***secretary of the Education and Workforce Development Cabinet***~~[president of the Council on Postsecondary Education]~~.

(3) The ***Office of Adult Education***~~[Kentucky Adult Education Program, Council on Postsecondary Education,]~~ shall be the agency solely designated for the purpose of developing and approving state plans required by state or federal laws or regulations.

➔Section 46. KRS 164.0232 is repealed, reenacted as a new section of KRS Chapter 151B, and amended to read as follows:

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

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the High School Equivalency Diploma program.

(3) The foundation shall be governed by a board of trustees to be appointed by the ***secretary of the Education and Workforce Development Cabinet***~~[President of the Council on Postsecondary Education]~~ with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the ***cabinet***~~[council]~~.

(4) The foundation shall be attached to the office of the ***secretary of the Education and Workforce Development Cabinet***~~[president of the Council on Postsecondary Education]~~ for administrative purposes.

➔Section 47. KRS 164.0234 is repealed, reenacted as a new section of KRS Chapter 151B, and amended to read as follows:

(1) ***(a)*** The ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to lifelong learning.

(b)~~[(a)]~~ Services shall be provided at multiple sites appropriate for adult learning, including vocational and technical colleges, community colleges, comprehensive universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.

(c)~~[(b)]~~ Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(d)~~[(c)]~~ Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.

(2) Services included as part of the adult education and literacy system shall include but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.

(3) In administering an adult education and literacy system, the ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ shall:

(a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including High School Equivalency Diploma program preparation, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;

(c) Assist adult educators to meet professional standards;

(d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;

(e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(f) Require and monitor compliance with the program's administrative regulations and policies; and

(g) Develop and implement performance measures and benchmarks.

➔Section 48. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, in consultation with the ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ and the Collaborative Center for Literacy Development: Early Childhood through Adulthood, shall assess the need for technical assistance, training, and other support to assist in the development of adult education and workforce development that support the state strategic agenda and that include a comprehensive

coordinated approach to education and training services. The council shall promote the involvement of universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies.

➔Section 49. KRS 164.041 is repealed, reenacted as a new section of KRS Chapter 151B, and amended to read as follows:

(1) There is created in the ***Education and Workforce Development Cabinet***~~[Council on Postsecondary Education,]~~ a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. Moneys accumulated in this fund on ***the effective date of this Act***~~[July 14, 2000]~~, shall remain in the fund and be transferred to the ***Education and Workforce Development Cabinet***~~[Council on Postsecondary Education]~~ to be used for purposes stated in this section.

(2) The purpose of the adult education and literacy initiative fund shall be to support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities.

(3) The ***cabinet***~~[council, in collaboration with the Kentucky Adult Education Program,]~~ shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.

(4) The fund shall include the following strategies:

(a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the ***cabinet***~~[council]~~. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under KRS 164.0207 shall evaluate the reading and literacy components of model programs funded under this paragraph.

(b) Research and demonstration. The funds shall be used to develop:

1. Standards for the preparation, professional development, and support for adult educators with the advice of the ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ and as compatible with funds provided under Title II of the Federal Workforce Investment Act;

2. A statewide competency-based certification for transferable skills in the workplace; and

3. A statewide public information and marketing campaign.

➔Section 50. KRS 164.092 is amended to read as follows:

(1) For purposes of this section:

(a) "Category I and Category II square feet" means square footage that falls under space categories as defined by the Postsecondary Education Facilities Inventory and Classification Manual published by the United States Department of Education;

(b) "Comprehensive university" has the same meaning as in KRS 164.001;

(c) "Council" means the Council on Postsecondary Education;

(d) "Equilibrium" means a condition in which every institution has an appropriately proportionate level of resources as determined by the performance funding model established in this section given each institution's level of productivity in achieving student success outcomes, course completion outcomes, and other components included in the model;

(e) "Formula base amount" means an institution's general fund appropriation amount from the previous fiscal year net of debt service on bonds, appropriations for mandated programs as determined by the council, and any adjustments reflecting the previous fiscal year's performance distribution;

(f) "Hold-harmless provision" means a provision included in the funding formulas as described in subsection (9) of this section that prevents a reduction of a designated portion of funding for an institution through operation of the funding formula;

(g) "Institution" means a college in the Kentucky Community and Technical College System or a public university;

(h) "KCTCS" means the Kentucky Community and Technical College System;

(i) "KCTCS institution allocable resources" means the formula base amount net of any equity adjustment as described in subsection (7)(b) of this section, any amount protected by a hold-harmless provision, and any applicable increase or decrease in general fund appropriations;

(j) "Research universities" means the University of Kentucky and the University of Louisville;

(k) "Stop-loss provision" means a provision included in the funding formulas as described in subsection (9) of this section to limit reduction of an institution's funding amount to a predetermined percentage, notwithstanding the amounts calculated by operation of the formula; and

(l) "University allocable resources" means the formula base amount net of any small school adjustment as described in subsection (5)(c) of this section, any amount protected by a hold-harmless provision, and any applicable increase or decrease in general fund appropriations.

(2) The General Assembly hereby finds that improving opportunity for the Commonwealth's citizens and building a stronger economy can be achieved by its public college and university system focusing its efforts and resources on the goals of:

(a) Increasing the retention and progression of students toward timely credential or degree completion;

(b) Increasing the number and types of credentials and degrees earned by all types of students;

(c) Increasing the number of credentials and degrees that garner higher salaries upon graduation, such as science, technology, engineering, math, and health, and in areas of industry demand;

(d) Closing achievement gaps by increasing the number of credentials and degrees earned by low-income students, underprepared students, and underrepresented minority students; and

(e) Facilitating credit hour accumulation and transfer of students from KCTCS to four (4) year postsecondary institutions.

(3) The General Assembly hereby declares these goals can best be accomplished by implementing a comprehensive funding model for the allocation of state general fund appropriations for postsecondary institution operations that aligns the Commonwealth's investments in postsecondary education with the Commonwealth's postsecondary education policy goals and objectives.

(4) This section establishes a comprehensive funding model for the public postsecondary education system to be implemented by the Council on Postsecondary Education. The funding model shall include a public university sector formula and a KCTCS sector formula.

(5) The funding formula for the public university sector shall:

(a) Recognize differences in missions and cost structures between research universities and comprehensive universities to ensure that neither are advantaged or disadvantaged during the first full year of implementation;

(b) Distribute one hundred percent (100%) of the university allocable resources for all universities in the sector, based on rational criteria, including student success, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable;

(c) Include an adjustment to minimize impact on smaller campuses as determined by the council; and

(d) Be constructed to achieve equilibrium, at which point the funding formula rewards rates of improvement above the sector average rate.

(6) Funding for the public university sector shall be distributed as follows:

(a) Thirty-five percent (35%) of total university allocable resources shall be distributed based on each university's share of total student success outcomes produced, including but not limited to:

1. Bachelor's degree production;

2. Bachelor's degrees awarded per one hundred (100) undergraduate full-time equivalent students;

3. Numbers of students progressing beyond thirty (30), sixty (60), and ninety (90) credit hour thresholds;

4. Science, technology, engineering, math, and health bachelor's degree production; and

5. Bachelor's degrees earned by low-income students and underrepresented minority students;

(b) Thirty-five percent (35%) of total university allocable resources shall be distributed based on each university's share of sector total student credit hours earned, excluding dual credit enrollment, weighted to account for cost differences by academic discipline and course level, such as lower and upper division baccalaureate, master's, doctoral research, and doctoral professional; and

(c) Thirty percent (30%) of total university allocable resources shall be distributed in support of vital campus operations as follows:

1. Ten percent (10%) shall be distributed based on each university's share of Category I and Category II square feet, net of research, nonclass laboratory, and open laboratory space, to support maintenance and operation of campus facilities and may include a space utilization factor as determined by the council in collaboration with the working group established in subsection (11) of this section;

2. Ten percent (10%) shall be distributed based on each university's share of total instruction and student services spending, net of maintenance and operation, to support campus administrative functions; and

3. Ten percent (10%) shall be distributed based on each university's share of total full-time equivalent student enrollment to support academic support services such as libraries and academic computing.

(7) The funding formula for the KCTCS sector:

(a) Shall distribute one hundred percent (100%) of KCTCS institution allocable resources for all KCTCS colleges based on rational criteria, including student success, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable;

(b) May include an adjustment to account for declining enrollment in some regions of the Commonwealth as determined by the council; and

(c) Shall be constructed to achieve equilibrium, at which point the funding formula rewards rates of improvement above the sector average rate.

(8) Funding for the KCTCS sector shall be distributed as follows:

(a) Thirty-five percent (35%) of total KCTCS institution allocable resources shall be distributed based on each college's share of total student success outcomes produced, including but not limited to:

1. Certificate, diploma, and associate degree production;

2. Numbers of students progressing beyond fifteen (15), thirty (30), and forty-five (45) credit hour thresholds;

3. Science, technology, engineering, math, and health credentials production;

4. Production of high-wage, high-demand, industry credentials as determined using occupational outlook data and employment statistics wage data provided by the ***Department of Workforce Investment in the Education and Workforce Development Cabinet***~~[Kentucky Office of Employment and Training]~~;

5. Production of industry credentials designated as targeted industries by the Education and Workforce Development Cabinet;

6. Credentials earned by low-income students, underprepared students, and underrepresented minority students; and

7. Transfers to four (4) year institutions;

(b) Thirty-five percent (35%) of total KCTCS institution allocable resources shall be distributed based on each college's share of total student credit hours earned, weighted to account for cost differences by academic discipline; and

(c) Thirty percent (30%) of total KCTCS institution allocable resources shall be distributed in support of vital campus operations as follows:

1. Ten percent (10%) shall be distributed based on each college's share of Category I and Category II square feet, net of research, nonclass laboratory, and open laboratory space, to support maintenance and operation of campus facilities and may include a space utilization factor as determined by the council in collaboration with the postsecondary education working group established in subsection (11) of this section;

2. Ten percent (10%) shall be distributed based on each college's share of total instruction and student services spending, net of maintenance and operation, to support campus administrative functions; and

3. Ten percent (10%) shall be distributed based on each college's share of total full-time equivalent student enrollment to support academic support services such as libraries and academic computing.

(9) (a) The funding formula for both sectors shall include:

1. A hold-harmless provision for fiscal year 2018-2019 preventing a reduction in an institution's funding amount based solely on the formula calculation, and allowing a hold-harmless amount determined by the formula in fiscal year 2018-2019 to be deducted from an institution's formula base amount in whole or in part in fiscal years 2019-2020 and 2020-2021, as determined by the council;

2. A stop-loss provision for fiscal year 2019-2020 limiting the reduction in funding to any institution to one percent (1%) of that institution's formula base amount; and

3. A stop-loss provision for fiscal year 2020-2021 limiting the reduction in funding to any institution to two percent (2%) of that institution's formula base amount.

(b) For fiscal year 2021-2022 and thereafter, hold-harmless and stop-loss provisions shall not be included in the funding formulas except by enactment of the General Assembly.

(c) Paragraph (a) of this subsection shall not be construed to limit the level of a budget reduction that may be enacted by the General Assembly or implemented by the Governor.

(10) (a) By April 1, 2017, and each April 1 thereafter, the council shall certify to the Office of the State Budget Director the amount to be distributed to each of the public universities and KCTCS as determined by the comprehensive funding model created in this section, not to exceed the available balance in the postsecondary education performance fund created in subsection (13) of this section.

(b) The Office of the State Budget Director shall distribute the appropriations in the postsecondary education performance fund for that fiscal year to the institutions in the amounts the council has certified. The adjusted appropriations to each institution shall be allotted as provided in KRS 48.600, 48.605, 48.610, 48.620, and 48.630.

(c) For fiscal year 2017-2018, the Office of the State Budget Director shall distribute to the public postsecondary education institutions, except for Kentucky State University, those funds appropriated to the postsecondary education performance fund by the General Assembly in 2016 Ky. Acts ch. 149, Part I, K., 12., in accordance with the comprehensive funding model created in this section.

(11) (a) The Council on Postsecondary Education is hereby directed to establish a postsecondary education working group composed of the following:

1. The president of the council;

2. The president or designee of each public postsecondary institution, including the president of KCTCS;

3. The Governor or designee;

4. The Speaker of the House or designee; and

5. The President of the Senate or designee.

(b) Beginning in fiscal year 2020-2021 and every three (3) fiscal years thereafter, the postsecondary education working group shall convene to determine if the comprehensive funding model is functioning as expected, identify any unintended consequences of the model, and recommend any adjustments to the model.

(c) The results of the review and recommendations of the working group shall be reported by the council to the Governor, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Education.

(12) The council shall promulgate administrative regulations under KRS Chapter 13A to implement the provisions of this section.

(13) (a) The postsecondary education performance fund is hereby established as an appropriation unit to support improvement in the operations of the public postsecondary institutions and achievement of the Commonwealth's education policy goals and workforce development priorities. General fund moneys may be appropriated by the General Assembly to this fund for distribution to the public postsecondary institutions in amounts determined through the comprehensive funding model created in this section.

(b) Any balance in the postsecondary education performance fund at the close of any fiscal year shall not lapse but shall be carried forward to the next fiscal year and be continuously appropriated for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this action.

➔Section 51. KRS 164.477 is amended to read as follows:

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

(a) "Alternative format" means any medium or format for the presentation of instructional materials other than standard print needed by a student with a disability for a reading accommodation, including but not limited to braille, large print texts, audio recordings, digital texts, and digital talking books;

(b) "Instructional material" means a textbook or other material published primarily for use by students in a course of study in which a student with a disability is enrolled that is required or essential to a student's success, as determined by the course instructor. "Instructional material" includes nontextual mathematics and science material to the extent that software is commercially available to permit the conversion of the electronic file of the material into a format that is compatible with assistive technologies such as speech synthesis software or braille translation software commonly used by students with disabilities;

(c) "Nonprinted instructional material" means instructional material in a format other than print, including instructional material that requires the availability of electronic equipment in order to be used as a learning resource, including but not limited to software programs, videodiscs, videotapes, and audio tapes;

(d) "Printed instructional material" means instructional material in book or other printed form;

(e) "Publisher" means an individual, firm, partnership, corporation, or other entity that publishes or manufactures instructional material used by students attending a public or independent postsecondary education institution in Kentucky;

(f) "State Repository for Alternative Format Instructional Materials" or "repository" means a consortium established or otherwise designated by the Council on Postsecondary Education under subsection (8) of this section to serve as a state repository for electronic files or alternative format instructional materials obtained from publishers, created by institutions, or received through other means;

(g) "Structural integrity" means the inclusion of all of the information provided in printed instructional material, including but not limited to the text of the material sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, and glossaries, but need not include nontextual elements such as pictures, illustrations, graphs, or charts; and

(h) "Working day" means a day that is not Saturday, Sunday, or a national holiday.

(2) The purpose of this section is to ensure, to the maximum extent possible, that all postsecondary students with a disability in Kentucky requiring reading accommodations, in accordance with Section 504 of the

Rehabilitation Act, 29 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., including but not limited to students who are blind, are visually impaired, or have a specific learning disability or other disability affecting reading, shall have access to instructional materials in alternative formats that are appropriate to their disability and educational needs.

(3) A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of this section, provide to a postsecondary education institution or to the State Repository for Alternative Format Instructional Materials, at no cost:

(a) Printed instructional material in an electronic format; and

(b) Nonprinted instructional material in an electronic format, when the technology is available to maintain the material's structural integrity.

(4) Instructional material provided by a publisher in electronic format shall:

(a) Maintain the structural integrity of the original instructional material, except as provided for in paragraph (b) subsection (3) of this section;

(b) Be compatible with commonly used braille translation and speech synthesis software;

(c) Include corrections and revisions as may be necessary; and

(d) Be in a format that is mutually agreed upon by the publisher and the requesting institution or the State Repository for Alternative Format Instructional Materials. If good-faith efforts fail to produce an agreement as to an electronic format that will preserve the structural integrity of the instructional material, the publisher shall provide the instructional material in XML (Extensible Markup Language), utilizing an appropriate document-type definition suitable for the creation of alternative format materials, and shall preserve as much of the structural integrity of the original instructional material as possible.

(5) The publisher shall transmit or otherwise send an electronic format version of requested instructional material within fifteen (15) working days of receipt of an appropriately completed request. Should this timetable present an undue burden for a publisher, the publisher shall submit within the fifteen (15) working day period a statement to the requesting entity certifying the expected date for transmission or delivery of the file.

(6) (a) To receive an electronic format version of instructional material, a written request shall be submitted to the publisher that certifies:

1. The instructional material has been purchased for use by a student with a disability by the student or the institution the student attends or is registered to attend;

2. The student has a disability that prevents the student from using the standard instructional material; and

3. The instructional material is for use by the student in connection with a course in which he or she is registered or enrolled.

(b) A publisher may also require a statement signed by the student or, if the student is a minor, the student's parent or legal guardian, agreeing that the student will:

1. Use the electronic copy of the instructional material solely for his or her own educational purposes; and

2. Not copy or distribute the instructional material for use by others.

(7) The request for an electronic format version of instructional material shall be prepared and signed by:

(a) The coordinator of services for students with a disability at the institution;

(b) A representative of the ***Division of***~~[Office for the]~~ Blind ***Services within the Office of Vocational Rehabilitation in the Education and Workforce Development Cabinet***;

(c) A representative of the Office of Vocational Rehabilitation; or

(d) A representative of the State Repository for Alternative Format Instructional Materials.

(8) The Council on Postsecondary Education may, to the extent funds are available, establish or otherwise designate a consortium to be called the State Repository for Alternative Format Instructional Materials to serve

as a state repository for electronic files and alternative format materials for the purpose of facilitating the timely access of appropriate alternative instructional materials by postsecondary students with a disability.

(9) The Council on Postsecondary Education may promulgate administrative regulations governing the implementation and administration of this section.

(10) The council shall work with representatives of each postsecondary institution to develop policies and procedures designed to ensure to the maximum extent possible that students with disabilities have access to instructional materials in appropriate alternative formats within the first week of class.

(11) The council, in consultation with appropriate entities, including but not limited to the Office ***of Vocational Rehabilitation*** ~~[for the Blind]~~, the Kentucky Assistive Technology Service Network, Recording for the Blind and Dyslexic, and the Kentucky Association on Higher Education and Disability, shall include within its annual status report on postsecondary education in Kentucky a continuing assessment of the need for statewide technical assistance, training, and other supports designed to increase the availability and effective use of alternative format instructional materials.

(12) The State Repository for Alternative Format Instructional Materials or the council may receive electronic files and alternative format materials from:

(a) Publishers;

(b) Postsecondary education institutions that have created alternative materials for use by a student with a disability;

(c) The Kentucky Department of Education, receiving electronic files from publishers under the requirements of KRS 156.027; or

(d) Other sources.

(13) The repository or the council shall, upon receipt of documents as set forth in subsection (6) of this section, provide at no cost copies of electronic files and alternative format materials to:

(a) Postsecondary education institutions in Kentucky; and

(b) The Kentucky Department of Education, to assist in the implementation of the requirements of KRS 156.027.

(14) The repository shall provide to a publisher, upon request:

(a) A summary of all electronic or alternative format versions of instructional material from that publisher provided to students, postsecondary education institutions, and the Kentucky Department of Education from its holdings; and

(b) Copies of requests and related certification documents received for instructional materials from that publisher.

(15) The repository or the council may submit requests for electronic files to publishers on behalf of institutions.

(16) (a) A postsecondary education institution or an educational instructor, assistant, or tutor may assist a student with a disability by using the electronic format version of instructional material as provided by this section solely to transcribe or arrange for the conversion of the instructional material into an alternative format, or to otherwise assist the student.

(b) If an alternative format version of instructional material is created, an institution may, for the purpose of providing the version to other students with disabilities, share that version with:

1. The repository;

2. A Kentucky postsecondary education institution serving a student with a disability; and

3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly provides alternative format materials for use by students in Kentucky institutions.

(17) The disk or file of an electronic format version of instructional material used directly by a student shall be copy-protected, or reasonable precautions shall be taken by the institution to ensure that the student does not copy or distribute the electronic format version in violation of the Copyright Revisions Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

(18) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

(19) Nothing in this section shall absolve covered entities from the obligation to provide equivalent access to information technology and software as set forth in KRS 61.982.

(20) A publisher shall be considered a place of public accommodation for the purposes of KRS 344.130. Failure to comply with the requirements of this section shall be an unlawful practice of discrimination on the basis of disability for the purposes of KRS 344.120.

➔Section 52. KRS 186.576 is amended to read as follows:

As used in KRS 186.576 to 186.579:

(1) "Applicant" means any person applying for an instruction permit or an operator's license who must use a bioptic telescopic device in order to operate a motor vehicle;

(2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or without corrective lenses;

(3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify distant objects by including a small telescope that is mounted in a spectacle lens in a manner to allow an unobstructed view of the horizontal visual field through a person's normal distance corrective lens;

(4) "Certified driver training program" means a program that provides and coordinates comprehensive assessment and training of driving skills and responses that emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility skills of an applicant and that is certified by the department;

(5) "Combined visual acuity" means visual acuity attained by using both eyes together where a person has binocular vision;

(6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but does not mean a bioptic telescopic device;

(7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the period of time from between thirty (30) minutes after sunrise and thirty (30) minutes before sunset. Under this restriction, driving during adverse weather conditions that significantly reduce the visibility of the roadway, other traffic, and traffic control devices shall be prohibited;

(8) "Office" means the Office~~[for the Blind]~~ ***of Vocational Rehabilitation***;

(9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye, with or without corrective lenses;

(10) "Restricted out-of-state driver" means a person who has been issued, by another state, a valid operator's license with a restriction requiring the use of a bioptic telescopic device;

(11) "Vision specialist" means a licensed ophthalmologist or optometrist;

(12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen visual acuity scale; and

(13) "Visual field" means the area of physical space visible to the eye in a given fixed position.

➔Section 53. KRS 186.578 is amended to read as follows:

(1) Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:

(a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;

(b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;

(c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and

(d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.

(2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training

program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.

(3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.

(4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the Department of Kentucky State Police. The operator's license examination shall include testing of the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.

(5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.

(6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director or bioptic driving instructor recommending that the applicant or restricted out-of-state driver be allowed to retake the examination.

(7) The Office~~[for the Blind]~~ ***of Vocational Rehabilitation in the Education and Workforce Development Cabinet*** shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

➔Section 54. KRS 205.178 is amended to read as follows:

(1) At a regularly scheduled interval, each enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet shall receive and review information from the Kentucky Lottery Corporation concerning individuals enrolled as recipients in the Medicaid program or the food stamps program that indicates a change in circumstances that may affect eligibility, including but not limited to changes in income or resources.

(2) On at least a monthly basis, each enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet shall receive and review information from the Vital Statistics Branch concerning individuals enrolled in the Medicaid program or the food stamps program that indicates a change in circumstances that may affect eligibility.

(3) On at least a quarterly basis, each enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet shall receive and review information from the Kentucky ***Office***~~[Division]~~ of Unemployment Insurance concerning individuals enrolled in the Medicaid program or the food stamps program that indicates a change in circumstances that may affect eligibility, including but not limited to changes in employment or wages.

(4) On at least a quarterly basis, each enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet shall receive and review information concerning individuals enrolled in the Medicaid program or the food stamps program that indicates a change in circumstances that may affect eligibility, including but not limited to potential changes in residency as identified by out-of-state electronic benefit transfer transactions.

(5) (a) Notwithstanding any other provision of law to the contrary, each enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet shall enter into a memorandum of understanding with any department, agency, or division for information detailed in this section.

(b) Notwithstanding any other provision of law to the contrary, any department, agency, or division for information detailed in this section, including but not limited to the Kentucky Lottery Corporation, the Vital Statistics Branch, the ***Office***~~[Division]~~ of Unemployment Insurance, and the Department for Community Based Services, shall enter into any necessary memoranda of understanding with the enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program requesting an agreement pursuant to paragraph (a) of this subsection.

(6) Each enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet may contract with one (1) or more independent vendors to provide additional data or information which may indicate a change in circumstances that may affect eligibility.

(7) Each enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet shall explore joining any multistate cooperative to identify individuals who are also enrolled in public assistance programs outside of this state.

(8) If an enrollment or benefit tracking agency associated with the Medicaid program or the food stamps program of the cabinet receives information concerning an individual enrolled in the Medicaid program or the food stamps program that indicates a change in circumstances that may affect eligibility, the enrollment or benefit tracking agency or other appropriate agency shall review the individual's case.

(9) The food stamps program of the cabinet shall not seek, apply for, accept, or renew any waiver of requirements established under 7 U.S.C. sec. 2015(o) unless there is an economic downturn resulting in an unemployment rate of ten percent (10%) or more or the Cabinet for Health and Family Services determines an increase in the unemployment rate in any particular county is severe enough to necessitate a waiver.

(10) The cabinet shall promulgate all rules and regulations necessary for the purposes of carrying out this section.

(11) On or before December 1 of each year, the Cabinet for Health and Family Services shall submit a report relating to the number of individuals discovered utilizing services inappropriately, the number of individuals who were removed from one (1) or more public assistance programs as a result of a review pursuant to this section, and the amount of public funds preserved in total and by public assistance program and aggregated by prior years. This report shall be forwarded to the Interim Joint Committees on Health and Welfare and Family Services and Appropriations and Revenue of the Legislative Research Commission.

➔Section 55. KRS 336.020 is amended to read as follows:

(1) The Department of Workplace Standards shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 and shall be divided for administrative purposes into the ~~[Division of Apprenticeship, the]~~Division of Occupational Safety and Health Compliance, the Division of Occupational Safety and Health Education and Training, and the Division of Wages and Hours. Each of these divisions shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.

(2) The Department of Workers' Claims shall be headed by a commissioner appointed by the Governor, and confirmed by the Senate in accordance with KRS 342.228. The department shall be divided for administrative purposes into the Office of Administrative Law Judges, the Division of Claims Processing, the Division of Security and Compliance, the Division of Workers' Compensation Funds, and the Division of Specialist and Medical Services. The Office of Administrative Law Judges shall be headed by a chief administrative law judge appointed in accordance with KRS 342.230. Each division in the department shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050. The Workers' Compensation Board shall be attached to the Department of Workers' Claims for administrative purposes only.

(3) The Office of General Counsel for the Labor Cabinet, the Office of Administrative Services, and the Office of Inspector General are attached to the Office of the Secretary of the Labor Cabinet.

(4) (a) The Office of General Counsel for the Labor Cabinet shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.

(b) The Office of General Counsel shall be divided for administrative purposes into the Workplace Standards Legal Division and the Workers' Claims Legal Division.

(c) Each legal division shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.

(5) (a) The Office of Administrative Services shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040.

(b) The Office of Administrative Services shall be divided for administrative purposes into the Division of Fiscal Management, the Division of Human Resources Management, the Division of Information Technology and Support Services, and the Division of Professional Development and Organizational Management. Each division shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.

(6) The Office of Inspector General shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040.

➔Section 56. KRS 341.145 is amended to read as follows:

(1) The secretary of the Education and Workforce Development Cabinet may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the secretary and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigations, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the secretary considers suitable in effectuating the purpose of these administrative arrangements.

(2) The secretary may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states.

(3) (a) The secretary shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two (2) or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to contributory employers' reserve accounts and reimbursing employers' accounts in accordance with the provisions of KRS 341.530(2) and (3) to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account for contributing employers only. Provided, that if the Secretary of Labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the Federal Unemployment Tax Act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the secretary.

(b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.

(4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.

(5) To the extent permissible under the laws and Constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor or both, whereby:

(a) Overpayments of unemployment benefits, as determined under this chapter, shall be recoverable (after due notice and opportunity for appeal has been provided to the claimant) by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, in either the current or any subsequent benefit year, in an amount equivalent to the amount of overpayment determined under this chapter, provided the ~~[Office of Employment and Training,]~~Department of Workforce Investment, certifies to the other state the facts involved and that the claimant is liable to repay the benefits and the office requests the other state to recover the benefits; and

(b) Overpayments of unemployment benefits, as determined under the unemployment compensation law of another state, shall be recoverable (after such state has provided due notice and opportunity for appeal to the claimant) by offset from unemployment benefits otherwise payable under this chapter, in either the current or subsequent benefit year, in an amount equivalent to the amount of overpayment determined by such other state, provided such state certifies to the office the facts involved and that the individual is liable to repay the benefits and the state requests the office to recover the benefits; and

(c) Provided there is in effect a reciprocal agreement between this state and the United States Secretary of Labor, as authorized by Section 303(g)(2) of the Social Security Act, the overpayment of unemployment benefits or allowances for unemployment provided under a federal program administered by this state shall be recoverable by offset from benefits otherwise payable under this chapter or any such federal program. Such agreement shall also suffice to permit the offset from unemployment benefits, otherwise payable under a federal program administered by this state, the overpayment of unemployment benefits paid under this chapter.

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

➔Section 57. KRS 341.243 is amended to read as follows:

(1) There is created within the State Treasury a special fund known as the service capacity upgrade fund that shall be administered separate and apart from all public money or funds of the state.

(2) The service capacity upgrade fund shall be used solely for acquisition and upgrading of the technology base, program integrity functions, and service delivery capacity in support of the programs administered by the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~. The secretary shall have full power, authority, and jurisdiction over the fund, including all money, property, and securities belonging thereto, and shall perform any act necessary or convenient in the administration of the fund consistent with this section. Any expenditure of the fund shall be coordinated with and approved by the Commonwealth Office of Technology, and nothing in this section shall be construed as reducing or limiting the authority of the Commonwealth's chief information officer over all technology expenditures. The secretary shall provide an annual report to the Interim Joint Committee on Economic Development and Workforce Investment detailing all receipts and expenditures of the fund.

(3) Any money collected under the provisions of this section shall be invested at interest in banks or other interest-bearing obligations of the United States. Investments shall at all times be made so that all the assets of the service capacity upgrade fund shall be convertible into cash when needed for the payment of expenses incurred in upgrading the service capacity of the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~. All interest income received under this section shall be credited to the fund. The State Treasurer shall dispose of securities or other property belonging to the fund only under the direction of the secretary and the secretary of the Finance and Administration Cabinet.

(4) Beginning October 1, 2018, all rates otherwise established under KRS 341.270 and 341.272 shall be adjusted by subtracting seventy-five thousandths percent (0.075%) from each rate, but only if the unemployment insurance trust fund balance exceeds the balance of the trust fund as of December 31, 2017.

(5) For any calendar year in which all rates have been reduced in accordance with subsection (4) of this section, all contributory employers shall pay into the service capacity upgrade fund an amount equal to the percentage by which rates were reduced multiplied by their taxable wages paid during that calendar year. Payments shall be made at the same time and in the same manner as prescribed for payment of contributions under KRS 341.260 and all regulations prescribed by the secretary in support of that section. The restrictions in KRS 341.470(1) apply equally to the provisions of this section. Failure to make these payments shall be subject to interest and all other collection actions provided for failure to make contributions under KRS 341.300.

(6) All payments required under subsection (5) of this section, along with any interest due to late payment of these assessments, shall be deposited in the service capacity upgrade fund.

(7) Notwithstanding subsection (4) of this section, the secretary may exercise his or her discretion to reduce the percentage rate prescribed in subsection (4) of this section or suspend required payments to the service capacity upgrade fund at any time.

(8) The secretary shall suspend the reduction of the rate prescribed in subsection (4) of this section at any time when collections for the service capacity upgrade fund exceed a cumulative amount of sixty million dollars ($60,000,000). At the time payments are suspended, any funds thus far collected under subsection (4) of this section in excess of those necessary to fund technology upgrades, shall be deposited into the unemployment insurance trust fund. Any future collection of past due payments to the service capacity upgrade fund, including any applicable penalty and interest funds, shall be deposited into the penalty and interest fund.

➔Section 58. KRS 341.250 is amended to read as follows:

(1) Any employing unit that becomes subject to this chapter within any calendar year shall be considered a subject employer during the whole of that calendar year, except as specifically provided elsewhere in this section or this chapter.

(2) Except as provided in subsections (3) and (5) of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, on or before the fifteenth day of April of that year, a written application for termination of coverage, and the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under KRS 341.070. The secretary may, however, after notifying such employer in writing at his last known address, terminate the coverage of any subject employer as of the first day of January of any calendar year if such subject employer has had no individuals in covered employment in this state at any time during the three (3) preceding calendar years, and the balance of such employer's reserve account may be immediately transferred to the pooled account.

(3) (a) Any employing unit not otherwise subject to this chapter that files with the office its written election to become a subject employer for not less than two (2) calendar years shall, with the written approval of such election by the secretary, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year, it has filed with the office a written notice to that effect.

(b) Any employing unit for which services that do not constitute covered employment are performed may file with the office a written election that all such services performed by individuals in its employ in one (1) or more distinct establishments or places of business shall be considered to constitute covered employment by a subject employer for all the purposes of this chapter for not less than two (2) calendar years. Upon written approval of such election by the secretary, such services shall be considered to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be considered covered employment subject hereto as of January 1 of a calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year such employing unit has filed with the office a written notice to that effect.

(c) Any employing unit having service performed in covered employment solely by reason of KRS 341.050(1)(h) may terminate such service as "covered employment" as of the first day of January of any calendar year if such service does not meet the provisions of paragraph (e), (f) or (g), but only if on or before April 15 of such year, the employing unit has filed with the office a written request to terminate service as "covered employment."

(4) An employing unit that becomes a subject employer under KRS 341.070(7), shall become subject as of the date of acquisition.

(5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, any subject employer whose entire reserve account has been transferred to a successor in interest as provided for in KRS 341.540 shall immediately cease to be a subject employer and shall thereafter become a subject employer only upon his future employment experience.

➔Section 59. KRS 341.260 is amended to read as follows:

(1) Contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this chapter. Such contributions shall be based upon wages paid during such calendar year for covered employment. Such contributions shall become due and be paid at the offices of the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, in Frankfort by each subject employer to the office for the fund in accordance with such regulations as the secretary prescribes, and shall not be deducted in whole or in part from the wages of workers in his employ. In the

payment of any contributions, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent ($0.005) or more, in which case it shall be increased to one cent ($0.01).

(2) Any contractor, who is or becomes a subject employer under the provisions of this chapter, who contracts with any subcontractor, who also is or becomes a subject employer under the provisions of this chapter, shall withhold sufficient moneys on said contract to guarantee that all contributions, penalties, and interest are paid upon completion of said contract, or shall require of said subcontractor a good and sufficient bond guaranteeing payment of all contributions, penalties, and interest due, or to become due with respect to wages paid for employment on said contract. Failure to comply with the provisions of this section shall render said contractor directly liable for such contributions, penalties, and interest due from said subcontractor and the wages paid by said subcontractor shall be deemed wages paid by the said contractor with respect to the same periods for all purposes under this chapter, and liens of the same nature are attachable and enforceable in the same manner as liens under KRS 341.310 and 341.315. A person, employing unit, or entity that enters into a verbal or written agreement with another, or between which there exists an implied contract based upon the circumstances, conduct, or acts or relations of the parties:

(a) To have work performed consisting of the removal, excavation or drilling of soil, rock, or mineral, or the cutting or removal of timber from land; or

(b) To have work performed of a kind which is a customary or a recurrent part of the work of the trade, business, occupation, or profession of such person or entity, shall for the purposes of this subsection be deemed a contractor, and such other person or entity a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

➔Section 60. KRS 341.270 is amended to read as follows:

(1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).

(2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.

(3) For the calendar year 2001 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of September 30 of the preceding year. If the "trust fund balance":

(a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect;

(b) Equals or exceeds five hundred million dollars ($500,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect;

(c) Equals or exceeds three hundred fifty million dollars ($350,000,000) but is less than five hundred million dollars ($500,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect;

(d) Equals or exceeds two hundred fifty million dollars ($250,000,000) but is less than three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect;

(e) Equals or exceeds one hundred fifty million dollars ($150,000,000) but is less than two hundred fifty million dollars ($250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect; and

(f) Is less than one hundred fifty million dollars ($150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.

(4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each

subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to the calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Rate Schedule

Employer Reserve Ratio	Trust Fund Adequacy Rates	A	B	C	D	E
8.0% and over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but						

under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but						
under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but						
under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but						
under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but						
under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but						
under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
Less						
than -8.0%	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, on that date shall be considered as being in the fund on that date;

(b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers;

(c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of June 30 immediately preceding the computation date;

(d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through June 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to the account, the account shall be considered as having a debit balance and a reserve ratio of "less than zero"; and

(e) "Computation date" is July 31 of each calendar year prior to the effective date of new rates of contributions.

➔Section 61. KRS 341.300 is amended to read as follows:

(1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to interest at the rate of one and five-tenths percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such contributions, from and after such date until payment is received by the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment~~[,]~~irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section or is the subject of an administrative appeal or court action. The interest charged for a month, in which the unpaid contributions remain unpaid, shall be considered accrued and therefore due and owing on the first day after the last day of the month in which the balance is due. Such interest shall be paid into the unemployment compensation administration fund.

(2) If, after due notice, any subject employer defaults in any payment of contributions, interest or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest and penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil

actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law.

(3) At or after the commencement of an action under subsection (2) of this section, attachment may be had against the property of the liable subject employer for such contributions, interest, and penalties, without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(4) An action for the recovery of contributions, interest, or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within ten (10) years from the due date of such contributions, except, in the case of the filing of a false or fraudulent report, the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

➔Section 62. KRS 341.360 is amended to read as follows:

(1) No worker may be paid benefits for any week of unemployment:

(a) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection, a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;

(b) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States; but if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply;

(c) 1. Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in KRS 341.067(2) or in an educational institution as defined in KRS 341.067(4), begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or

2. Which, when based on service other than as defined in subparagraph 1. of this paragraph, in an institution of higher education or an educational institution, as defined in KRS 341.067(2) or (4), begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or

3. Which, when based on service in any capacity defined in subparagraphs 1. and 2. of this paragraph, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or

4. Based on service in any capacity defined in subparagraph 1. or 2. of this paragraph when such service is performed by the worker in an institution of higher education or an educational institution, as defined in KRS 341.067(2) or (4), while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in subparagraphs 1., 2., and 3. of this paragraph. For purposes of this

paragraph, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions;

Notwithstanding any other provision of this paragraph, any benefits paid to a worker based on service other than as defined in subparagraph 1. of this paragraph performed in an institution of higher education as defined in KRS 341.067(2) shall be deemed to have been paid as a result of Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subparagraph 2. of this paragraph; or

(d) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.

(2) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

(3) (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act.

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

➔Section 63. KRS 341.410 is amended to read as follows:

The secretary acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in KRS 341.090(3), the ***Office*** ~~[Division]~~ of Unemployment Insurance shall notify all interested parties. If found to be not fully insured, the division shall notify the worker. The secretary may, at any time, make further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The secretary may by regulation prescribe what constitutes a determination as used in this section and KRS 341.420(2) and (3). Any further determination made pursuant to this section may be appealed pursuant to KRS 341.420.

➔Section 64. KRS 341.415 is amended to read as follows:

(1) (a) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program, providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, for the fund a sum equal to the amount so received by him.

(b) If after due notice, the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in KRS 341.300(2) for collection of past-due contributions and any sums so collected shall be credited to the pooled account or the appropriate reimbursing employer account.

(c) The appropriate reimbursing employer account shall not receive credit for sums collected under this subsection or KRS 341.550(2)(b) if a determination has been made that an improper benefit payment

established after October 21, 2013, was due to the reimbursing employer, or an agent of the employer, in accordance with the provisions of KRS 341.530(4)(a) and (b). The sums collected shall be credited to the pooled account.

(d) If any benefit was paid as a result of office error as defined by administrative regulation, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter. For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of office error.

(2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in KRS 341.300(3).

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the office upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined and shall continue until the amount of the overpayment plus any subsequent assessment of additional improperly paid benefits, penalty, interest, and fees are fully paid. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2), and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

(5) In the event benefits have been paid as a result of a false statement, misrepresentation, or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five-tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.

(6) A recipient of benefits paid as a result of a false statement, misrepresentation, or concealment of material information by the recipient shall be assessed a fifteen percent (15%) penalty of the amount of improperly paid benefits. The penalty under this subsection shall be collected in the same manner as improperly paid benefits in this section and paid into the unemployment trust fund.

(7) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter unless the overpayment resulted from a backpay award, false statement, misrepresentation, or concealment of material information by a recipient of benefits. In these instances, the rate of deduction shall be one hundred percent (100%). The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

➔Section 65. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, and such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the Office of ***Unemployment Insurance***~~[Employment and Training]~~, Department of Workforce Investment, or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

➔Section 66. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator, court, or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his or her representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself or herself or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before a referee or the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

➔Section 67. KRS 341.530 is amended to read as follows:

(1) The Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment, shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) of this subsection, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the office, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Notwithstanding the provisions of subsection (3) of this section, no contributing employer's reserve account shall be relieved of any charges for benefits relating to an improper benefit payment to a worker established after October 21, 2013, if:

(a) The improper benefit payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the secretary for information relating to a claim for benefits; and

(b) The employer, or an agent of the employer, has a pattern of failing to respond timely or adequately to requests under paragraph (a) of this subsection. For purposes of this paragraph, a "pattern of failing" means at least six (6) failures occur in a calendar year or the failure to respond to two percent (2%) of such requests in a calendar year, whichever is greater.

(5) Any determination under subsection (4) of this section shall be transmitted to the last known physical or electronic address provided by the employer and may be appealed in accordance with the provisions of KRS 341.420(2).

(6) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(8) Any subject contributing employer may at any time on or before December 31, 2011, make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Effective January 1, 2012, any subject contributing employer with a negative reserve account balance may make voluntary payments to the fund every other calendar year, in addition to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary payments by any employer shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

➔Section 68. KRS 341.540 is amended to read as follows:

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

(a) "Substantially common" or "substantially the same" means that there is identifiable or demonstrative commonality or similarity of ownership, familial relationships, principals or corporate officers, day-to-day operations, assets and liabilities, and stated business;

(b) "Trade" or "business" includes but is not limited to a commercial enterprise or establishment; any entity engaged in the supplying, production, or manufacturing of goods, commodities, or services; any entity engaged in commerce, sale for profit, or the providing of goods, personnel, or services;

(c) "Knowingly" means having actual knowledge of, or acting with deliberate ignorance or disregard for, the prohibition involved;

(d) "Violates" or "attempts to violate" includes, but is not limited to, intended evasion, misrepresentation, or willful nondisclosure; and

(e) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code.

(2) (a) For the purpose of this chapter, if a subject employer transfers all or part of its trade or business, the acquiring employing unit shall be deemed a successor if the transfer is in accordance with administrative regulations promulgated by the secretary, or if there is substantially common ownership, management, or control of the subject employer and employing unit. If an employing unit is deemed a successor, the transferring employing unit shall be deemed a predecessor.

(b) For the purpose of this chapter, if a nonsubject employer acquires all or part of the trade or business of a subject employer, the nonsubject employer shall file an application with the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment to establish an unemployment reserve account within forty-five (45) days of employing personnel. The application will be considered and processed in accordance with administrative regulations promulgated by the secretary and shall require information necessary to determine whether the nonsubject employer is a successor of the subject employer and to establish an initial unemployment contribution rate for the employer. Factors to be considered in the determination of successorship and the fixing of the initial rate shall include but not be limited to the nonsubject employer's prior unemployment claims history, benefit charges, historical rate charges, and payment penalties assessed in the previous five (5) years, in addition to the factors set forth in subsection (6)(b) of this section. After consideration of these factors, and others that the applicant may submit in justification of an initial rate determination, the secretary shall set an appropriate contribution rate. Any determinations of initial unemployment contribution rates made pursuant to this subsection shall not be effective prior to January 1, 2018.

(3) (a) Notwithstanding subsection (2)(b) of this section, any successor to the trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor of the delinquency within six (6) months after the department has notice of the succession; and

(b) Any nonsubject employer that is deemed a successor in whole or part shall be allowed to make a one (1) time voluntary payment to pay off or reduce the negative reserve assumed from the predecessor. This payment shall be made within sixty (60) days of receipt of the first notice of a negative predecessor reserve account. This one (1) time voluntary payment cannot exceed the amount of negative reserve assumed by the successor.

(4) The liability for delinquent contributions and interest imposed upon the successor by subsection (3) of this section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on the judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(5) (a) Notwithstanding the provisions of subsection (3) of this section, any successor to a portion of the trade or business of a subject employer, who is, or by reason of the transfer becomes, a subject employer, shall assume the resources and liabilities of the predecessor's reserve account in proportion to the percentage of the payroll or employees assignable to the transferred portion. In calculating the transferred portion, the secretary shall utilize the last four (4) calendar quarters preceding the date of

transfer for workers employed by the successor subsequent to that date. The taxable payroll, benefit charges and the potential benefit charges shall be assumed by the successors in a like proportion.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, if any employing unit succeeds to a portion of the trade or business of another employing unit; becomes, by reason of that succession, a subject employer with substantially the same ownership, management, or control as the predecessor employing unit; and lays off or terminates more than one-half (1/2) of the original employees transferred within six (6) months of the date of transfer; then the succession and creation of the new employing unit shall be voided, and the benefits attributable to the lay-offs or terminations shall be charged to the reserve account of the original employing unit.

(6) (a) The contribution rate of a successor in whole or in part, which was a subject employer prior to succession, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which succession occurred; except that the rate of the successor shall be recalculated and made effective upon the first day of the calendar quarter immediately following the date of the transfer if there is substantially common ownership, management, or control of the predecessor and successor.

(b) The contribution rate of a successor in whole or in part, which was not a subject employer prior to succession, shall be determined by a review of the application required by subsection (2)(b) of this section, except if the secretary finds, after a thorough investigation based on the use of objective factors, including but not limited to:

1. The cost of acquiring the business;

2. How long the original business enterprise was continued; and

3. Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity prior to acquisition;

that the succession was solely for the purpose of obtaining a rate lower than that prescribed in KRS 341.270(1) and 341.272 for a new employing unit, then the unemployment experience of the predecessor shall not be transferred, the rate for a new employing unit shall be assigned, and the employing unit shall be otherwise deemed a successor for the purpose of KRS 341.070(7) and subsection (3) of this section.

(c) The contribution rate for a successor which becomes a subject employer through the simultaneous transfer, either in whole or in part, of two (2) or more predecessor reserve accounts shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to as of the computation date for determining rates for the calendar year in which succession occurred.

(d) The contribution rate of a successor which succeeds, either in whole or in part, to a predecessor's reserve account after a computation date, but prior to the beginning of the calendar year immediately following that computation date, shall be the rate determined in accordance with KRS 341.270, by effecting the transfer of the reserve account as of the computation date immediately preceding the date of succession.

(7) Notwithstanding KRS 341.270, the contribution rate for an employing unit that knowingly violates or attempts to violate the provisions of this section or any other provision of the chapter related to determining the assignment of a contribution rate shall be the highest rate assignable under this chapter for the calendar year during which the violation or attempted violation occurred and the three (3) calendar years immediately following that year. If that employer's rate is already at the highest assignable rate, or if the amount of increase in the employer's rate would be less than an additional two percent (2%) for that year, then a penalty rate of contributions of an additional two percent (2%) of taxable wages shall be imposed for each year.

(8) In addition to the penalties prescribed in subsection (7) of this section and KRS 341.990(9), any person who knowingly violates this section shall be subject to the penalties stipulated under KRS 341.990.

(9) (a) The secretary shall establish procedures to identify the transfer of a business for purposes of this section.

(b) The secretary shall have the authority and discretion to set an initial contribution rate upon the providing of justification by a subject employer and consideration of relevant factors, including but not limited to the factors set forth in subsections (2) and (6)(a) of this section.

➔Section 69. KRS 341.990 is amended to read as follows:

(1) Except as otherwise provided in subsection (11) of this section, any employee of any state agency who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.

(2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.

(3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.

(7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the Office of ***Unemployment Insurance*** ~~[Employment and Training]~~, Department of Workforce Investment.

(8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.

(9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether or not an employing unit, who knowingly advises or assists an employing unit in the violation or attempted violation of KRS 341.540 or any other provision of this chapter related to determining the assignment of a contribution rate shall be subject to a civil monetary penalty of not less than five thousand dollars ($5,000).

(10) Proceeds from all penalties imposed under subsection (9) of this section and KRS 341.540 shall be deposited in the unemployment compensation administration account and shall be expended solely for the cost of administration of this chapter consistent with KRS 341.240.

(11) Any person who violates the confidentiality provision in KRS 341.190(4) shall be guilty of a Class A misdemeanor.

➔Section 70. KRS 342.0011 is amended to read as follows:

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

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury;

(2) "Occupational disease" means a disease arising out of and in the course of the employment;

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence;

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made;

(5) "Death" means death resulting from an injury or occupational disease;

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer;

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter;

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet;

(9) "Commissioner" means the commissioner of the Department of Workers' Claims under the direction and supervision of the secretary of the Labor Cabinet;

(10) "Board" means the Workers' Compensation Board;

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;

2. Loss of both feet at or above the ankle;

3. Loss of both hands at or above the wrist;

4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;

5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;

6. Incurable insanity or imbecility; or

7. Total loss of hearing;

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits;

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits;

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits;

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices;

(16) "Person" means any individual, partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, or legal representative thereof;

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course

of employment from persons other than the employer as evidenced by the employee's federal and state tax returns;

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations, including the sale of produce at on-site markets and the processing of produce for sale at on-site markets. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market;

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter;

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States;

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien;

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every self-insured group operating under the provisions of this chapter;

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time;

(24) "Premium" for every self-insured group means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group;

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. For policies with provisions for deductibles with

effective dates on or after January 1, 1995, assessments shall be imposed on premiums received as calculated by the deductible program adjustment. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. For policies with provisions for deductibles with effective dates on or after January 1, 1995, assessments shall be imposed as calculated by the deductible program adjustment. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(e) "Deductible program adjustment" means calculating premium and premiums received on a gross basis without regard to the following:

1. Schedule rating modifications, debits, or credits;

2. Deductible credits; or

3. Modifications to the cost of coverage from inception through and including any audit that are based on negotiated retrospective rating arrangements, including but not limited to large risk alternative rating options;

(26) "Insurance policy" for an insurance company or self-insured group means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year;

(27) "Self-insurance year" for a self-insured group means the annual period of certification of the group created pursuant to KRS 342.350(4) and 304.50-010;

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period;

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the ***Department of Workforce Investment*** ~~[Office of Employment and Training]~~, Education and Workforce Development Cabinet. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period;

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the ***Department of Workforce Investment*** ~~[Office of Employment and Training]~~ data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122;

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying its own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying its own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews its application for certification to carry its own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification;

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry its own risk and is so certified, its premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then its premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1);

(f) If an employer is certified to carry its own risk after having previously insured the risk, its premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry its own risk and has paid all amounts due for assessments upon premiums paid while insured, the employer shall be assessed only upon the premium calculated under this subsection;

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection; and

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter;

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget;

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System;

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits;

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth;

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods;

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy;

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment";

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b); and

(37) "Guides to the Evaluation of Permanent Impairment" means, except as provided in KRS 342.262:

(a) The fifth edition published by the American Medical Association; and

(b) For psychological impairments, Chapter 12 of the second edition published by the American Medical Association.

➔Section 71. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the ~~[Division of Apprenticeship and]~~Division of Wages and Hours in the Department of Workplace Standards, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of June 30 preceding January 1 of each year, for the period remaining until December 31, 2029. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011,

of every employer carrying its own risk. On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying its own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.

(c) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(d) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) (a) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(b) Beginning on January 1, 2020, all assessments shall be electronically remitted to the funding commission quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely when filed and remitted using the appropriate electronic pay system as prescribed by the funding commission. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from the insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A self-insured group may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a self-insured group.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each self-insured group to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or self-insured group may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or self-insured group from the obligation to furnish same to the funding commission. The ***Department of Workforce Investment***~~[Office of Employment and Training]~~, Education and Workforce Development Cabinet, is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provision of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk.

➔Section 72. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he or she is unable to perform work for which he or she has previous training or experience, he or she shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him or her to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his or her own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him or her fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or its insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his or her board, lodging, or travel shall be paid for by the employer or its insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the Office of Vocational Rehabilitation and the ***Department of Workforce Investment***~~[Office of Employment and Training]~~ of the Education and Workforce Development Cabinet. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Office of Vocational Rehabilitation or ***Department of Workforce Investment***~~[Office of Employment and Training]~~ following the refusal by the employer or its insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or its insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated

pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

➔Section 73. KRS 342.732 is amended to read as follows:

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

(a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.

2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the commissioner. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent (33-1/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent (37-1/2%) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.

3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a High School Equivalency Diploma in accordance with administrative regulations promulgated by the commissioner. These benefits shall be paid in the amount of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.

4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000).

5. The employee shall notify the parties of his or her intention to retrain within thirty (30) days after the administrative law judge's order becomes final. The employee must initiate retraining within three hundred sixty-five (365) days of the administrative law judge's final order. Income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.

6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the commissioner, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars ($5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars ($10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.

7. An employee who is age fifty-seven (57) years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraphs 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.

8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).

9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.

10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred;

(b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under paragraph (a)1. to 6. of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revocable, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a)1. to 6. of this subsection to extend the period of disability;

(c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks;

(d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability; and

(e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his or her decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) Upon request, the commissioner shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the Office of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the commissioner. The commissioner shall contract with the Office of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342. 1242 notwithstanding, for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.

(5) The commissioner shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:

(a) Create an online portal through which employees shall select a facility or institution to provide their retraining. This portal shall list bona fide training or education programs. These programs shall include postsecondary programs registered with the Higher Education Assistance Authority, and will qualify the employee for a trade, occupation, or profession. The programs listed shall be capable of completion within the period benefits are payable under subsection (1)(a) of this section;

(b) Establish requirements for approval and certification of a bona fide training or education program;

(c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;

(d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and

(e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the ***Office of Adult Education within the Department of Workforce Investment in the Education and Workforce Development Cabinet***~~[Kentucky Adult Education Program within the Council on Postsecondary Education]~~ as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.

(6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

➔Section 74. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the~~[Office for Employment and Training,]~~ Department ***of*** ~~[for]~~Workforce Investment, which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be paid directly to the jailer and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes:

(a) The board of the prisoner and transportation costs incurred by the county;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment; and

(d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court shall not direct that any payment authorized under this section be paid through the circuit clerk.

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

➔Section 75. KRS 533.210 is amended to read as follows:

(1) The program described in KRS 533.200 shall be administered by the ***Office of Adult Education within the Department of Workforce Investment in the Education and Workforce Development Cabinet*** ~~[Kentucky Adult Education Program within the Council on Postsecondary Education]~~, which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program, including but not limited to the costs of participation in the program by persons sentenced to the program.

(2) The ***Office of Adult Education*** ~~[Kentucky Adult Education Program]~~ shall license qualified persons or organizations to conduct the program described in KRS 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

➔Section 76. All personnel, records, files, equipment, and funds of the Kentucky Adult Education Program within the Council for Postsecondary Education shall be transferred to the Office of Adult Education within the Department of Workforce Investment in the Education and Workforce Development Cabinet, except funds related to the federal Adult Education and Family Literacy Act (AEFLA) program shall not be transferred and the Council on Postsecondary Education shall remain the eligible agency with authority to draw down AEFLA funds until the United States Department of Education approves the transfer of the AEFLA grant from the Council on Postsecondary Education to the Education and Workforce Development Cabinet and issues an AEFLA grant award notice to the Education and Workforce Development Cabinet.

➔Section 77. Notwithstanding KRS 12.028(5):

(1) The General Assembly confirms in part Executive Order 2018-597, dated July 23, 2018, to the extent that it is not otherwise confirmed or superseded by this Act. The General Assembly confirms the entirety of that order, except for Part II, which it does not confirm.

(2) The General Assembly confirms Executive Order 2018-779, dated September 21, 2018, to the extent that it is not otherwise confirmed or superseded by this Act.

(3) The General Assembly confirms Executive Order 2019-026, dated January 7, 2019, to the extent that it is not otherwise confirmed or superseded by this Act.

(4) The General Assembly confirms Executive Order 2019-027, dated January 7, 2019, to the extent not otherwise confirmed or superseded by this Act.

Signed by Governor March 26, 2019.

CHAPTER 147

(HB 386)

AN ACT relating to the insurance industry.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act, unless context requires otherwise:

(1) "Applicant" means a person that has filed an application under Section 2 of this Act;

(2) "Beta test" means the phase of testing of an insurance innovation in the regulatory sandbox through the use, sale, license, or availability of the insurance innovation by or to clients or consumers under the supervision of the department;

(3) "Client" means a person, other than a consumer, utilizing a participant's insurance innovation during a beta test to carry on some activity regulated by the department;

(4) "Director" means the director of insurance innovation;

(5) "Extended no-action letter" or "extended letter" means a public notice setting forth the conditions for an extended safe harbor beyond the beta test under which the department will not take any administrative or regulatory action against any person using the insurance innovation described in the extended no-action letter;

(6) "Innovation's utility" means an evaluation by the commissioner of the insurance innovation's ability to adequately satisfy factors set forth in subsection (1)(b)1. of Section 2 of this Act;

(7) "Insurance innovation" or "innovation" means any product, process, method, or procedure relating to the sale, solicitation, negotiation, fulfilment, administration, or use of any product or service regulated by the department:

(a) That has not been used, sold, licensed, or otherwise made available in this Commonwealth before the effective filing date of the application, whether or not the product or service is marketed or sold directly to consumers; and

(b) That has regulatory and statutory barriers that prevent its use, sale, license, or availability within this Commonwealth;

(8) "Limited no-action letter" or "limited letter" means a letter setting forth the conditions of a beta test and establishing a safe harbor under which the department will not take any administrative or regulatory action against a participant or client of the participant concerning the compliance of the insurance innovation with Kentucky law so long as the participant or client abides by the terms and conditions established in the limited no-action letter;

(9) "Participant" means an applicant that has been issued a limited no-action letter under Section 4 of this Act; and

(10) "Regulatory sandbox" or "sandbox" means the process established under Sections 1 to 8 of this Act by which a person may apply to beta test and obtain a limited no-action letter for an innovation, potentially resulting in the issuance of an extended no-action letter.

➔SECTION 2. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, on or before December 31, 2025, a person may apply to the department for admission to the sandbox by submitting an application in the form prescribed by the commissioner, accompanied by the following:

(a) A filing fee of seven hundred fifty dollars ($750);

(b) A detailed description of the innovation, which shall include:

1. An explanation of how the innovation will:

a. Add value to customers and serve the public interest;

b. Be economically viable for the applicant;

c. Provide suitable consumer protection; and

d. Not pose an unreasonable risk of consumer harm.

2. A detailed description of the statutory and regulatory issues that may prevent the innovation from being currently utilized, issued, sold, solicited, distributed, or advertised in the market;

3. A description of how the innovation functions and the manner in which it will be offered or provided;

4. If the innovation involves the use of software, hardware, or other technology developed for the purpose of implementing or operating it, a technical white paper setting forth a description of the operation and general content of technology to be utilized, including:

a. The problem addressed by that technology; and

b. The interaction between that technology and its users;

5. If the innovation involves the issuance of a policy of insurance, a statement that either:

a. If the applicant will be the insurer on the policy, that the applicant holds a valid certificate of authority and is authorized to issue the insurance coverage in question; or

b. If some other person will be the insurer on the policy, that the other person holds a valid certificate of authority and is authorized to issue the insurance coverage in question; and

6. A statement by an officer of the applicant certifying that no product, process, method, or procedure substantially similar to the innovation has been used, sold, licensed, or otherwise made available in this Commonwealth before the effective filing date of the application;

(c) The name, contact information, and bar number of the applicant's insurance regulatory counsel, which shall be a person with experience providing insurance regulatory compliance advice;

(d) A detailed description of the specific conduct that the applicant proposes should be permitted by the limited no-action letter;

(e) Proposed terms and conditions to govern the applicant's beta test, which shall include:

1. Citation to the provisions of Kentucky law that should be excepted in the notice of acceptance issued under subsection (6) of Section 3 of this Act; and

2. Any request for an extension of the time period for a beta test under subsection (1) of Section 5 of this Act and the grounds for the request;

(f) Proposed metrics by which the department may reasonably test the innovation's utility during the beta test;

(g) Disclosure of all:

1. Persons who are directors and executive officers of the applicant;

2. General partners of the applicant if the applicant is a limited partnership;

3. Members of the applicant if the applicant is a limited liability applicant;

4. Persons who are beneficial owners of ten percent (10%) or more of the voting securities of the applicant;

5. Other persons with direct or indirect power to direct the management and policies of the applicant by contract, other than a commercial contract for goods or nonmanagement services; and

6. Conflicts of interest with respect to any person listed in this paragraph and the department;

(h) A statement that the applicant has funds of at least twenty-five thousand dollars ($25,000) available to guarantee its financial stability through one (1) or a combination of any of the following:

1. A contractual liability insurance policy;

2. A surety bond issued by an authorized surety;

3. Securities of the type eligible for deposit by authorized insurers in this Commonwealth;

4. Evidence that the applicant has established an account payable to the commissioner in a federally insured financial institution in this Commonwealth and has deposited money of the

United States in an amount equal to the amount required by this paragraph that is not available for withdrawal except by direct order of the commissioner;

5. A letter of credit issued by a qualified United States financial institution as defined in KRS 304.9-700; or

6. Another form of security authorized by the commissioner; and

(i) A statement confirming that the applicant is not seeking authorization for, nor shall it engage in, any conduct that would render the applicant unauthorized to make an application under subsection (2) of this section.

(2) (a) The following persons shall not be authorized to make an application to the department for admission to the sandbox:

1. Any person seeking to sell or license an insurance innovation directly to any federal, state, or local government entity, agency, or instrumentality as the insured person or end user of the innovation;

2. Any person seeking to sell, license, or use an insurance innovation that is not in compliance with subsection (1)(b)5. of this section;

3. Any person seeking to make an application that would result in the person having more than five (5) active beta tests ongoing within the Commonwealth at any one (1) time; and

4. Any person seeking a limited or extended no-action letter or exemption from any administrative regulation or statute concerning:

a. Assets, deposits, investments, capital, surplus, or other solvency requirements applicable to insurers;

b. Required participation in any assigned risk plan, residual market, or guaranty fund;

c. Any licensing or certificate of authority requirements; or

d. The application of any taxes or fees.

(b) For the purposes of this subsection, "federal, state, or local government entity, agency, or instrumentality" includes any county, city, municipal corporation, urban-county government, charter county government, consolidated local government, unified local government, special district, special purpose governmental entity, public school district, or public institution of education.

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

(1) There shall be a director of insurance innovation within the department, responsible for administering Sections 1 to 8 of this Act. The director shall be appointed by the secretary of the Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050.

(2) The director shall review all applications for admission to the sandbox.

(3) (a) Unless extended as provided in paragraph (b) of this subsection, the commissioner shall issue a notice of acceptance or rejection in accordance with this section within sixty (60) days from the date an application is received.

(b) The commissioner may extend by not more than thirty (30) days the period provided in paragraph (a) of this subsection if he or she notifies the applicant before expiration of the initial sixty (60) day period.

(c) An application that has not been accepted or rejected by a notice of acceptance or rejection issued by the commissioner prior to expiration of the initial sixty (60) day period, or if applicable, the period provided in paragraph (b) of this subsection, shall be deemed accepted.

(4) The commissioner may request from the applicant any additional material or information necessary to evaluate the application, including but not limited to:

(a) Proof of financial stability;

(b) A proposed business plan;

(c) Pro-forma financial statement; and

(d) Executive profiles on the applicant and its leadership demonstrating insurance or insurance-related industry experience and applicable experience in the use of the technology.

(5) The commissioner shall review the application to:

(a) Identify and assess:

1. The potential risks to consumers, if any, posed by the innovation; and

2. The manner in which the innovation would be offered or provided; and

(b) Determine whether it satisfies the following requirements:

1. The application satisfies the requirements of Section 2 of this Act;

2. The application proposes a product, process, method, or procedure that meets the definition of innovation under Section 1 of this Act;

3. Approval of the application does not pose an unreasonable risk of consumer harm;

4. The application identifies statutory or regulatory requirements that actually prevent the innovation from being utilized, issued, sold, solicited, distributed, or advertised in this Commonwealth; and

5. The application proposes an innovation that is not substantially similar to an innovation:

a. That has been previously beta tested; or

b. Proposed in an application that is currently pending with the department.

(6) Upon review of the application, the commissioner shall, in his or her discretion, issue one (1) of the following:

(a) If the commissioner determines that the application fails to satisfy any of the requirements under subsection (5)(b) of this section, he or she shall:

1. Issue a notice of rejection to the applicant; and

2. Describe in the notice of rejection the specific defects in the application; or

(b) If the commissioner determines that the application satisfies the requirements of subsection (5)(b) of this section, he or she shall issue a notice of acceptance to the applicant. The notice of acceptance shall:

1. Set forth the terms and conditions that will govern the applicant's beta test, which shall include, at a minimum:

a. Requiring the applicant to:

i. Abide by all Kentucky law, except where explicitly excepted;

ii. Utilize the insurance innovation within this Commonwealth; and

iii. Report any change in the disclosures made pursuant to subsection (1)(g) of Section 2 of this Act;

b. Notice of the licenses required to be obtained prior to the commencement of the beta test;

c. Monthly reporting obligations structured to determine the progress of the beta test;

d. Consumer protection measures deemed necessary by the commissioner to be employed by the applicant;

e. The level of financial stability required to be in place for the beta test. The commissioner may increase, decrease, or waive the requirements for financial stability required under subsection (1)(h) of Section 2 of this Act, commensurate with the risk of consumer harm posed by the insurance innovation;

f. Duration of the beta test, including any extension authorized under Section 5 of this Act;

g. Permitted conduct under the limited letter;

h. Any limits established by the commissioner on the:

i. Financial exposure that may be assumed by an applicant during the beta test;

ii. Number of customers an applicant may accept; and

iii. Volume of transactions that an applicant or its clients may complete during the beta test; and

i. Metrics the commissioner intends to use to determine the innovation's utility; and

2. Provide that the notice of acceptance shall expire unless:

a. It is accepted by the applicant in writing; and

b. The acceptance is filed with the department within sixty (60) days of the issuance of the notice.

(7) An applicant may request a hearing pursuant to KRS 304.2-310 on:

(a) A notice of rejection; and

(b) A notice of acceptance, if the request is made prior to its expiration.

➔SECTION 4. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Within ten (10) days following the timely receipt of an acceptance pursuant to subsection (6)(b)2. of Section 3 of this Act, the commissioner shall issue a limited no-action letter that:

(a) Sets forth terms and conditions for the participant that are the same as those set forth in the notice of acceptance issued under subsection (6) of Section 3 of this Act; and

(b) Provides that so long as the participant and any clients of the participant abide by the terms and conditions set forth in the letter, no administrative or regulatory action concerning the compliance of the insurance innovation with Kentucky law will be taken by the commissioner against the participant or any clients during the term of the beta test.

(2) If the application is deemed accepted under subsection (3)(c) of Section 3 of this Act, the proposed limited no-action letter included with the application shall be deemed to have the effect of a limited letter issued by the commissioner.

(3) The safe harbor of the limited letter shall persist until the earlier of:

(a) The early termination of the beta test under Section 5 of this Act;

(b) The issuance of an extended no-action letter; or

(c) The issuance of a notice declining to issue an extended no-action letter.

(4) A limited no-action letter issued by the commissioner under this section shall be exempt from the application of KRS 13A.130.

(5) The commissioner shall publish any limited letter issued pursuant to this section on the department's Web site.

➔SECTION 5. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The time period for a beta test shall be one (1) year. The time period may be extended by the commissioner in the notice of acceptance for a period that is not longer than one (1) year if a request is made in accordance with subsection (1)(e) of Section 2 of this Act.

(2) During the beta test, the participant and any clients of the participant shall:

(a) Comply with all terms and conditions set forth in the limited no-action letter; and

(b) Provide the department with all documents, data, and information requested by the commissioner.

(3) (a) For any violation of the terms or conditions set forth in the limited letter, the commissioner may:

1. Issue an order terminating the beta test and the safe harbor of the limited letter before the time period set forth in the limited letter has expired; and

2. Impose a fine of not more than two thousand dollars ($2,000) per violation.

(b) The commissioner may also issue an order under paragraph (a)1. of this subsection if, following receipt of information or complaints, the commissioner determines the beta test is causing consumer harm.

(4) (a) The commissioner may issue an order requiring a client to cease and desist any activity violating the terms or conditions set forth in the limited letter.

(b) The issuance of a cease and desist order to one (1) client shall not otherwise impact the ability of the participant or any other clients to continue activities relating to the innovation in a manner compliant with the requirements of the limited letter.

(5) A participant or client may request a hearing on any order issued under this section pursuant to KRS 304.2-310.

➔SECTION 6. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Within sixty (60) days of completion of the beta test, unless the time period is extended up to thirty (30) days upon notice from the commissioner, the commissioner shall issue an extended no-action letter or a notice declining to issue an extended no-action letter.

(b) The participant may continue to employ the insurance innovation pursuant to the terms and conditions of the limited letter during the period between the completion of the beta test and the issuance of either an extended no-action letter or a notice declining to issue an extended no-action letter.

(2) The commissioner shall review the results of the beta test to determine whether the innovation satisfies the following requirements:

(a) The data presented demonstrates that the innovation's utility was meritorious of an extension;

(b) Regulatory and statutory barriers prevent continued use of the innovation within this Commonwealth;

(c) The innovation provided a benefit to Kentucky consumers; and

(d) The issuance of an extended no-action letter:

1. Presents no risk of unreasonable harm to consumers or the marketplace; and

2. Serves the public interest.

(3) Upon review of the results of the beta test, the commissioner shall, in his or her discretion, issue one (1) of the following:

(a) If the commissioner determines that the innovation fails to satisfy any of the requirements under subsection (2) of this section, he or she shall:

1. Issue a notice declining to issue an extended no-action letter;

2. Describe in the notice the reasons for the declination;

3. Notify the participant for the innovation of the notice; and

4. Publish the notice on the department's Web site; or

(b) If the commissioner determines that the innovation satisfies the requirements under subsection (2) of this section, he or she shall issue an extended no-action letter. An extended no-action letter issued by the commissioner shall include:

1. A description of the insurance innovation and the specific conduct permitted by the extended letter in sufficient detail to enable any person to use the innovation or a product, process, method, or procedure not substantially different from the innovation within the safe harbor of the extended letter;

2. Notice of any certificate of authority, license, or permit the commissioner determines is necessary to use, sell, or license the innovation, or make the innovation available, in this Commonwealth;

3. An expiration date not greater than three (3) years following the date of issuance;

4. Notice that the extended no-action letter may:

a. Only be modified by:

i. Promulgation of an administrative regulation, if the safe harbor addresses a requirement established by administrative regulation; or

ii. An act of the General Assembly; and

b. Be rescinded prior to its expiration if the commissioner receives complaints and determines continued activity poses a risk of harm to consumers;

5. Clarification of required procedures related to the issuance and cancellation of any policies of insurance, if applicable, due to the expiration period; and

6. Notice that, upon expiration, all persons relying on the extended no-action letter shall cease and desist operations related to the innovation unless changes have been made to Kentucky law to permit the innovation by:

a. The promulgation of an administrative regulation, if the safe harbor address a requirement established by administrative regulation; or

b. An act of the General Assembly.

(4) A hearing on a notice of declination may be requested in accordance with KRS 304.2-310.

(5) An extended no-action letter issued by the commissioner pursuant to this section shall be:

(a) Exempt from the application of KRS 13A.130; and

(b) Published on the department's Web site.

➔SECTION 7. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All documents, materials, or other information in the possession or control of the department that are created, produced, obtained, or disclosed in relation to Sections 1 to 8 of this Act and that relate to the financial condition of any person shall be confidential and shall not be subject to public disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884.

(2) Notwithstanding any law to the contrary, the commissioner may disclose in an extended no-action letter any information relating to the insurance innovation necessary to clearly establish the safe harbor of the extended letter.

➔SECTION 8. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) One hundred twenty days (120) days prior to the start of the 2021, 2022, 2023, 2024, and 2025 regular sessions of the General Assembly, the commissioner shall submit a written report to the Interim Joint Committee on Banking and Insurance that meets the requirements of subsection (2) of this section. Thereafter, the commissioner shall submit the report annually, upon request.

(2) The report shall include the following:

(a) The number of:

1. Applications filed and accepted;

2. Beta tests conducted; and

3. Extended letters issued;

(b) A description of the innovations tested;

(c) The length of each beta test;

(d) The results of each beta test;

(e) A description of each safe harbor created under Section 6 of this Act;

(f) The number and types of orders or other actions taken by the commissioner or any other interested party under Sections 1 to 8 of this Act;

(g) Identification of any statutory barriers for consideration of amendment by the General Assembly following successful beta tests and the issuance of extended letters; and

(h) Any other information or recommendations deemed relevant by the commissioner.

(3) The commissioner shall also provide the Interim Joint Committee on Banking and Insurance a detailed briefing, upon request, to discuss and explain any report submitted under this section.

Signed by Governor March 26, 2019.

CHAPTER 148

(HB 375)

AN ACT relating to call location information.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Call location information" means the best available location information, including but not limited to information obtained using historical cellular site information or a mobile locator tool;

(b) "Emergency responder" has the same meaning as in KRS 194A.400;

(c) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal laws, and excludes constables.

(d) "Public safety answering point" has the same meaning as in KRS 65.750;

(e) "Wireless communications device" means any wireless electronic communication device that provides for voice or data communication between two (2) or more parties, including a mobile or cellular telephone; and

(f) "Wireless telecommunications carrier" means a provider of commercial mobile radio services, including all broadband personal communications services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services, and incumbent wide area specialized mobile radio licenses, which offer real-time, two-way voice services interconnected with the public switched telephone network and doing business in this Commonwealth.

(2) (a) Upon a request from a public safety answering point or law enforcement agency, a wireless telecommunications carrier shall provide call location information concerning the wireless communications device of a wireless telecommunications user to the requesting public safety answering point or law enforcement agency, in order to respond to a call for emergency services or in an emergency situation that involves the imminent risk of death or serious physical injury.

(b) Local emergency responders seeking call location information under this section shall direct inquiries to either a public safety answering point or a law enforcement agency, and the highest ranking person on duty at the public safety answering point or a law enforcement agency shall determine, in consultation with the emergency responders in the jurisdiction in which the emergency call or situation arose, whether the conditions under paragraph (a) of this subsection are met.

(3) Notwithstanding any other provision of law to the contrary, nothing in this section prohibits a wireless telecommunications carrier from establishing protocols by which the carrier could voluntarily disclose call location information.

(4) No cause of action shall lie in any court against any wireless telecommunications carrier or its officers, employees, or agents for providing call location information while acting in good faith and in accordance with this section.

(5) (a) In order to facilitate requests for call location information in accordance with this section, all wireless telecommunications carriers and all resellers of wireless telecommunications doing business in the Commonwealth shall submit emergency contact information to:

1. The Department of Kentucky State Police, for dissemination to law enforcement agencies; and

2. The Kentucky 911 Services Board, as created in KRS 65.7623, for dissemination to public safety answering points.

(b) The contact information required under this subsection shall be submitted annually, or immediately upon any change in contact information.

(6) All public safety answering points and law enforcement agencies shall develop and maintain policies and procedures regarding this section.

(7) Call location information gathered pursuant to this section shall not be disclosed to any party who is not officially involved in the underlying emergency response.

➔Section 2. This Act may be cited as the Leah Carter Act.

Signed by Governor March 26, 2019.

CHAPTER 149

(HB 368)

AN ACT relating to county detectives.

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

➔Section 1. KRS 69.360 is amended to read as follows:

(1) A county attorney may~~[, as funding allows,]~~ employ one (1) or more county detectives. County detectives ~~[in counties containing a consolidated local government]~~shall have the power of arrest in the county and the right to execute process statewide. They shall assist the county attorney in all matters pertaining to his office in the manner he designates and shall assist him in the preparation of all criminal cases in District Court by investigating the evidence and facts connected with such cases.

(2) A county detective ***appointed after July 1, 2019***~~[in a county containing a consolidated local government who has the power of arrest in the county and right to execute process statewide, as set out in subsection (1) of this section]~~, shall be certified in accordance with KRS 15.380 to~~[KRS]~~ 15.404.

~~[(3) A county detective certified in accordance with KRS 15.380 to 15.404 shall have the right to execute civil process statewide.~~

~~(4) A county detective who is not certified in accordance with KRS 15.380 to 15.404 shall have the right to serve civil process only in the county in which the county attorney is elected.~~

~~(5) The provisions of subsections (3) and (4) of this section shall not apply to a county detective appointed pursuant to subsections (1) and (2) of this section.]~~

➔Section 2. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

(a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;

(b) City, county, and urban-county police officers;

(c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

(d) State or public university police officers appointed pursuant to KRS 164.950;

(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Department of Alcoholic Beverage Control investigators appointed under KRS 241.090;

(h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;

(i) Fire investigators appointed or employed under KRS 95A.100 or 227.220; and

(j) County detectives appointed~~[in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide]~~ in accordance with KRS 69.360 ***after July 1, 2019***.

(2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers;

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and

(i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and

(j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;

(d) Jailers;

(e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and

(f) Commissioner of the State Police.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

Signed by Governor March 26, 2019.

CHAPTER 150

(HB 356)

AN ACT relating to student residency.

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

➔Section 1. KRS 164.2844 is amended to read as follows:

~~[Notwithstanding KRS 164.020(8):]~~

(1) ***Notwithstanding KRS 164.020(8),*** the governing board of a Kentucky public university may adopt a tuition policy whereby any veteran of the Armed Forces of the United States or National Guard who is eligible for Post-9/11 GI Bill benefits or any member of a Reserve component who enrolls as a student in the university as a non-Kentucky resident is charged no more than the maximum tuition reimbursement provided under the Post-9/11 GI Bill to public universities for eligible Kentucky residents.~~[; and]~~

(2) ***Notwithstanding KRS 164.020(8),*** beginning with the 2017-2018 academic year, an active member of the Kentucky National Guard who enrolls as a student in a Kentucky public university as a non-Kentucky resident shall be considered a Kentucky resident for tuition purposes.

(3) A member of the United States Armed Forces, or a spouse or dependent of a member, who is determined to be a Kentucky resident at the time of acceptance for admission by a public postsecondary institution under the guidelines established by the council shall not lose Kentucky residency status if the member is transferred on military orders prior to the member, spouse, or dependent enrolling in the institution for the academic term for which the member, spouse, or dependent was accepted or while the student is enrolled. The member, spouse, or dependent shall not lose Kentucky residency if he or she remains continuously enrolled in the institution at the same degree level.

Signed by Governor March 26, 2019.

CHAPTER 151

(HB 354)

AN ACT relating to taxation and declaring an emergency.

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

➔Section 1. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly

disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;

2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

   a. In conjunction with an application for or the administration of a loan or grant;

   b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;

   c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

   d. For the grant or review of a license to do business.

3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;

(e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;

(f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;

(h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(k) All public records or information the disclosure of which is prohibited by federal law or regulation;

(l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly**, *including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under Section 5 of this Act***;

(m) 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:

a. Criticality lists resulting from consequence assessments;

b. Vulnerability assessments;

c. Antiterrorism protective measures and plans;

d. Counterterrorism measures and plans;

e. Security and response needs assessments;

f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and

h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.

2. As used in this paragraph, "terrorist act" means a criminal act intended to:

a. Intimidate or coerce a public agency or all or part of the civilian population;

b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or

c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.

4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.

5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;

(n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law;

(o) Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:

1. A contract is awarded; or

2. The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited; and

(p) Communications of a purely personal nature unrelated to any governmental function.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

➔Section 2. KRS 96.895 is amended to read as follows:

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

(a) "Book value" means original cost unadjusted for depreciation as reflected in the TVA's books of account;

(b)~~["Department" means the Department for Local Government;~~

~~(c)]~~ "Fund" means the regional development agency assistance fund established in subsection (4) of this section;

(c)~~[(d)]~~ "Fund-eligible county" means one (1) of Adair, Allen, Ballard, Barren, Bell, Butler, Caldwell, Calloway, Carlisle, Christian, Clinton, Cumberland, Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman, Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe, Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren, Wayne, Webster, or Whitley Counties;

(d)~~[(e)]~~ "Regional development agency" or "agency" means a local industrial development authority established under KRS 154.50-301 to 154.50-346 that is designated by a fiscal court to receive a payment pursuant to this section;

(e)~~[(f)]~~ "TVA" means the Tennessee Valley Authority; and

(f)~~[(g)]~~ "TVA property" means land owned by the United States and in the custody of the TVA, together with improvements that have a fixed situs on the land, including work in progress but excluding temporary construction facilities, if these improvements either:

1. Were in existence when title to the land on which they are situated was acquired by the United States; or

2. Are allocated by the TVA or determined by it to be allocable to power. However, manufacturing machinery as interpreted by the Department ***of Revenue*** for franchise tax determination; ash disposal systems; and coal handling facilities, including railroads, cranes and hoists, and crushing and conveying equipment, shall be excluded.

(2) Book value shall be determined, for purposes of applying this section, as of the June 30 used by the TVA in computing the annual payment to the Commonwealth that is subject to redistribution by the Commonwealth.

(3) Except for payments made directly by the TVA to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the TVA, as authorized by Section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsections (6) and (7) of this section.

(4) (a) The regional development agency assistance fund is hereby established in the State Treasury.

(b) The fund shall be administered by the Department ***for Local Government*** for the purpose of providing funding to agencies that are designated to receive funding in a given fiscal year by the fiscal court of

each fund-eligible county through the Regional Development Agency Assistance Program established in KRS 96.905.

(c) The fund shall only receive the moneys transferred from the general fund pursuant to subsection (5) of this section.

(d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.

(5) For fiscal years beginning on or after July 1, 2018, a portion of the total fiscal year payment received by the Commonwealth that is allocated to the general fund shall be transferred from the general fund to the regional development agency assistance fund established in subsection (4) of this section. This portion shall be equal to:

(a) In fiscal year 2018-2019, two million dollars ($2,000,000);

(b) In fiscal year 2019-2020, four million dollars ($4,000,000); and

(c) In each fiscal year, beginning with the 2020-2021 fiscal year, six million dollars ($6,000,000).

(6) The payment to each county, city, and school district shall be determined by the proportion that the book value of TVA property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of TVA property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates. However, for purposes of this calculation, each public school district shall have its tax rate increased by thirty cents ($0.30).

(7) As soon as practicable after the amount of payment to be made to the Commonwealth is finally determined by the TVA, the Department ***of Revenue*** shall determine the book value of TVA property in each county, city, and school district and shall prorate the payments allocated to counties, cities, and school districts under subsection (3) of this section among the distributees as provided in subsection (6) of this section. The Department ***of Revenue*** shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.

(8) In each fiscal year, after the Department ***of Revenue*** has calculated the prorated payment amount that is due to each county pursuant to subsection (7) of this section, the Department ***for Local Government*** shall then make a written request to the fiscal court of each fund-eligible county for the name and address of the agency the fiscal court designates to receive a payment from the fund pursuant to subsection (5) of this section.

(9) Within sixty (60) days of the date of the ***Department for Local Government's***~~[department's]~~ request, each fiscal court shall designate in writing one (1) agency that shall receive a share of the total amount of funds transferred to the fund in that fiscal year pursuant to subsection (5) of this section. Each agency's share shall be calculated as the total amount of funds transferred to the fund in that fiscal year divided by the total number of agencies designated to receive funds by fiscal courts of fund-eligible counties. Once the amount is determined by the Department ***for Local Government***, the payment shall be paid by the Finance and Administration Cabinet directly to the designated agency. No amount shall be taken from the fund to pay administrative expenses by the Department ***for Local Government***.

(10) If a fiscal court does not respond to the Department ***for Local Government*** within sixty (60) days of the date of the ***Department for Local Government's***~~[department's]~~ request, the payment otherwise due to an agency designated by that fiscal court shall be reallocated equally among the agencies that have been designated to receive payments by the other fiscal courts.

(11) All agencies receiving funds under this section shall provide a written report annually, no later than October 1, to the fiscal court that designated it for payment and to the Interim Joint Committee on Appropriations and Revenue. The report shall describe how the funds were expended and the results of the use of funds in terms of economic development and job creation.

(12) This section shall be applicable to all payments received after April 10, 2018, from the TVA under Section 13 of the Tennessee Valley Authority Act as amended.

➔Section 3. KRS 131.175 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the Department of Revenue, the sheriff or the county clerk, the commissioner shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the department that failure to file or pay timely is due to reasonable

cause. ***For purposes of this section, any addition to tax provided in Sections 42 and 52 of this Act shall be considered as penalty.***

➔Section 4. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

(1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars ($10).

(2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined ***under Section 42 or 52 of this Act***~~[pursuant to subsections (2) and (3) of KRS 141.990]~~, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars ($10).

(3)~~[Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the department that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars ($25).~~

~~(4)]~~ If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars ($100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.

(4)~~[(5)]~~ If any taxpayer fails or refuses to pay within sixty (60) days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.

(5)~~[(6)]~~ Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars ($50).

(6)~~[(7)]~~ If any tax assessed by the department is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.

(7)~~[(8)]~~ If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.

(8)~~[(9)]~~ If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars ($10) nor more than one hundred dollars ($100). If the taxpayer who tendered the check shows

to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.

(9) ~~[(10)]~~ Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).

(10) ~~[(11)]~~ The penalties levied pursuant to subsection ***(4)*** ~~[(5)]~~ of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Claims Commission or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.

(11) ~~[(12)]~~ Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.

(12) ~~[(13)]~~ All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the department shall likewise be liable for all penalties and interest applicable thereto.

➔Section 5. KRS 131.190 is amended to read as follows:

(1) ***(a)*** No present or former commissioner or employee of the department, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge***:***

1. Any information acquired by him of the affairs of any person***;*** ~~[, or]~~

2. ***Any*** information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer***;*** ~~[, or]~~

3. Any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business***;***

4. Unappealed final rulings issued by the department;

5. Requests for guidance under KRS 131.130(8);

6. Private letter rulings; or

7 Alternative apportionment requests under KRS 141.120(12)(a) and any response thereto.

(b) Documents, data, and information subject to the prohibition established by this subsection shall not be subject to the Open Records Act, KRS 61.870 to 61.884, the Kentucky Rules of Civil Procedure, or any other order issued by an administrative hearing officer or administrative board or commission.

(2) The prohibition established by subsection (1) of this section shall not extend to:

(a) Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;

(b) Any matter properly entered upon any assessment record, or in any way made a matter of public record;

(c) Furnishing any taxpayer or his properly authorized agent with information respecting his own return;

(d) Testimony provided by the commissioner or any employee of the department in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;

(e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;

(f) Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this paragraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars ($10);

(g) Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;

(h) Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;

(i) Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis;~~[or]~~

(j) ***Providing documents, data, or other information to a third party pursuant to an order issued by a court of competent jurisdiction; or***

(k) Providing information to the Legislative Research Commission under:

1. KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;
2. KRS 141.436 for purposes of the energy efficiency products credits;
3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;
4. KRS 148.544 for purposes of the film industry incentives;
5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization tax credits and the job assessment fees;
6. KRS 141.068 for purposes of the Kentucky investment fund;
7. KRS 141.396 for purposes of the angel investor tax credit;
8. KRS 141.389 for purposes of the distilled spirits credit;~~[and]~~
9. KRS 141.408 for purposes of the inventory credit***; and***
10. Section 53 of this Act for purposes of the recycling and composting credit.

(3) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.

(4) Access to and inspection of information received from the Internal Revenue Service is for department use only, and is restricted to tax administration purposes. Information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, or any other person.

(5) Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Department of Revenue under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

➔Section 6. KRS 131.250 is amended to read as follows:

(1) For the purpose of facilitating the administration of the taxes it administers, the department may require any tax return, report, or statement to be electronically filed.

(2) The following reports, returns, or statements shall be electronically filed:

(a) The return required by KRS 136.620;

(b) For tax periods beginning on or after January 1, 2007, the report required by KRS 138.240;

(c) For tax periods beginning on or after August 1, 2010, the report required by KRS 138.260;

(d) For taxable years beginning on or after January 1, 2010, the return filed by a specified tax return preparer reporting the annual tax imposed by KRS 141.020, if the specified tax return preparer is required to electronically file the return for federal income tax purposes;

(e) The annual withholding statement required by KRS 141.335, if the employer issues more than twenty-five (25) statements annually;

(f) For tax periods beginning on or after July 1, 2005, the return required by KRS 160.615; and

(g) 1. For taxable years beginning on or after January 1, 2019, the returns required by ***subsection (3) of Section 47 of this Act or*** KRS~~[141.200(3) or]~~ 141.206(1), provided that the corporation or pass-through entity has gross receipts of one million dollars ($1,000,000) or more.

2. "Gross receipts" as used in this paragraph means gross receipts reported by the corporation or pass-through entity on their federal income tax return filed for the same taxable year as the return due under KRS Chapter 141.

(3) (a) A person required to electronically file a return, report, or statement may apply for a waiver from the requirement by submitting the request on a form prescribed by the department.

(b) The request shall indicate the lack of one (1) or more of the following:

1. Compatible computer hardware;

2. Internet access; or

3. Other technological capabilities determined relevant by the department.

➔Section 7. KRS 131.990 is amended to read as follows:

(1) (a) ***1.*** Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

2.~~[(b)]~~ Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

3.~~[(c)]~~ Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

4.~~[(d)]~~ Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years, or both.

5.~~[(e)]~~ Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.

(b) This subsection does not apply to any person who divulges or otherwise discloses documents, data, or other information prohibited from divulgence or disclosure pursuant to an order by a court of competent jurisdiction.

(2) Any person who willfully fails to comply with the rules and regulations promulgated by the department for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(3) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

(5) (a) Any person or financial institution that fails to comply with the provisions of KRS 131.672 and 131.674 within ninety (90) days after notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars ($1,000) and no more than five thousand dollars ($5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.

(b) Any financial institution that fails or refuses to comply with the provisions of KRS 131.672 and 131.674 within one hundred twenty (120) days after the notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the department, the commissioner of the Department of Financial Institutions shall, as applicable, revoke the authority of the financial institution or its agents to do business in the Commonwealth.

(6) Any taxpayer or tax return preparer who fails or refuses to comply with the provisions of KRS 131.250 or an administrative regulation promulgated under KRS 131.250 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a return processing fee of ten dollars ($10) for each return not filed as required.

➔Section 8. KRS 132.010 is amended to read as follows:

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

(1) "Department" means the Department of Revenue;

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax;

(3) "Real property" includes all lands within this state and improvements thereon;

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his ***or her*** actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when ***the*** ~~[such]~~ property is reclassified from farm to subdivision by the property valuation administrator, the value of ***the*** ~~[such]~~ property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that ***the*** ~~[such]~~ property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;

(9) "Agricultural land" means:

(a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

(b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

(c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of ***a***~~[such]~~ size or weight ***that does***~~[as]~~ not~~[to]~~ require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;

(18) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;

(19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;

(20) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and KRS 224.60-115;

(21) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:

(a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;

(b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;

(c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;

(d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;

(e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and

(f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, through:

1. Direct or indirect familial relationship;

2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or

3. Reorganization of a business entity that was potentially liable;

(22) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;

(23) (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;

(b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and

(c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;

(24) "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;

(25) "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes;

(26) (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.

(b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee;~~[and]~~

(27) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species***;***

(28) "Heavy equipment rental agreement" means the short-term rental contract under which qualified heavy equipment is rented without an operator for a period:

(a) Not to exceed three hundred sixty-five (365) days; or

(b) That is open-ended under the terms of the contract with no specified end date;

(29) "Heavy equipment rental company" means an entity that is primarily engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System Manual in effect on January 1, 2019; and

(30) "Qualified heavy equipment" means machinery and equipment, including ancillary equipment and any attachments used in conjunction with the machinery and equipment, that is:

(a) Primarily used and designed for construction, mining, forestry, or industrial purposes, including but not limited to cranes, earthmoving equipment, well-drilling machinery and equipment, lifts, material handling equipment, pumps, generators, and pollution-reducing equipment; and

(b) Held in a heavy equipment rental company's inventory for:

1. Rental under a heavy equipment rental agreement; or

2. Sale in the regular course of business.

➔Section 9. KRS 132.020 is amended to read as follows:

(1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:

(a) Thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation;

(b) ***Twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all motor vehicles qualifying for permanent registration as historic motor vehicles under KRS 186.043;***

(c) Fifteen cents ($0.15) upon each one hundred dollars ($100) of value of all:

1. Machinery actually engaged in manufacturing;

2. Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers; and

3. Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;

(d) Ten cents ($0.10) upon each one hundred dollars ($100) of value on the operating property of railroads or railway companies that operate solely within the Commonwealth;

(e) Five cents ($0.05) upon each one hundred dollars ($100) of value of goods held for sale in the regular course of business, which includes:

1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;

2. Motor vehicles:

a. Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to KRS 186A.230; or

b. That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;

3. Raw materials, which includes distilled spirits and distilled spirits inventory;

4. In-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business; and

5. Qualified heavy equipment;

(f) One and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all***:***

1. Privately owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

2.~~[(c)] [One and one half cents ($0.015) upon each one hundred dollars ($100) of value of all]~~Qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;

3.~~[(d)] [One and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all]~~Tobacco directed to be assessed for taxation;

4.~~[(e)] [One and one-half cents ($0.015) upon each one hundred dollars ($100) of value of]~~Unmanufactured agricultural products;

5. Aircraft not used in the business of transporting persons or property for compensation or hire; and

6. Federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes;

(g)~~[(f)]~~ One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all***:***

1. Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;

2.~~[(g)] [One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all]~~Livestock and domestic fowl;

3.~~[(h)] [One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all]~~Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board; ***and***

4.~~[(i)] [Fifteen cents ($0.15) upon each one hundred dollars ($100) of value of all machinery actually engaged in manufacturing;~~

~~(j) Fifteen cents ($0.15) upon each one hundred dollars ($100) of value of all commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers;~~

~~(k) Fifteen cents ($0.15) upon each one hundred dollars ($100) of value of all tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;~~

~~(l) One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all]~~Property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;~~[~~

~~(m) Twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;~~

~~(n) Five cents ($0.05) upon each one hundred dollars ($100) of value of goods held for sale in the regular course of business, which includes:~~

~~1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;~~

~~2. Motor vehicles:~~

~~a. Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230; or~~

~~b. That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;~~

~~3. Raw materials, which includes distilled spirits and distilled spirits inventory; and~~

~~4. In process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;~~

~~(o) Ten cents ($0.10) per one hundred dollars ($100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;~~

~~(p) One and one-half cents ($0.015) per one hundred dollars ($100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;~~

~~(q) One and one-half cents ($0.015) per one hundred dollars ($100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes;~~] and

(h) [~~(r)~~] Forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.

(2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:

(a) The assessment of new property as defined in KRS 132.010(8);

(b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and

(c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1)***(f)*** [~~(b)~~] of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:

(a) The revenue resulting from new property as defined in KRS 132.010(8);

(b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and

(c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section;

the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Office of Energy Policy for the purpose of public education of coal-related issues.

➔Section 10. KRS 132.220 is amended to read as follows:

(1) (a) All taxable property and all interests in taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year.

(b) 1. It shall be the duty of the holder of the first freehold estate in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law.

2. ***a.*** It shall be the duty of all persons owning any tangible personal property taxable in this state to list or have listed the property***, by the address at which it is located,*** with the property valuation administrator of the county of taxable situs or with the department between January 1 and May 15 in each year, except as ***provided by subdivision b. of this subparagraph or*** otherwise prescribed by law.

b. On January 1 of each year, for each address, if the sum of all of the taxable tangible personal property's fair cash values is one thousand dollars ($1,000) or less, the taxpayer shall not be required to list the property in accordance with subdivision a. of this subparagraph.

c. On January 1 of each year, for each address, if the sum of all of the taxable tangible personal property's fair cash values exceeds one thousand dollars ($1,000) and the property is not listed as required by subdivision a. of this subparagraph, the property shall be deemed omitted property in accordance with KRS 132.290.

d. For any taxable tangible personal property that is not listed due to the one thousand dollar ($1,000) threshold established in subdivision b. of this subparagraph, the owner of the property shall maintain records of the property and its fair cash value calculation for five (5) years after the expiration of the listing period.

3. The holder of legal title, the holder of equitable title, and the claimant or bailee in possession of the property on the assessment date as provided by law shall be liable for the taxes thereon, and the property may be assessed in any of their names. But, as between them, the holder of the equitable title shall pay the taxes thereon, whether or not the property is in his or her possession at the time of payment.

4. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer may list his or her property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the department, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his or her employee, or employees of the department may physically inspect, or inspect using any other method approved by the department, and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.

(5) (a) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period provided for in KRS 134.546, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated.

(b) The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884.

(c) If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290.

(d) Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.

(6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the department within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the department. The department shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.

(7) Each property valuation administrator, under the direction of the department, shall review annually all real property listed with him or her under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

➔Section 11. KRS 132.360 is amended to read as follows:

(1) Any assessment of tangible personal property listed with the property valuation administrator or with the department~~[of Revenue]~~ as provided by KRS 132.220 may be reopened by the department~~[of Revenue]~~ within five (5) years after the due date of the return, unless the assessed value has been established by a court of competent jurisdiction. If upon reopening the assessment the department finds that the assessment was less than the fair cash value and should be increased, it shall ***provide***~~[give]~~ notice~~[thereof]~~ to the taxpayer***. If the taxpayer disagrees with the increase in the assessment, the taxpayer may protest the notice in accordance with KRS 131.110***~~[, who may within forty five (45) days thereafter protest to the department and offer evidence to show that no increase should be made. After the department has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 49.220 and 131.110]~~.

(2) Upon ***the***~~[such]~~ assessment becoming final, the department shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

➔Section 12. KRS 134.580 is amended to read as follows:

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

(a) "Agency" means the agency of state government which administers the tax to be refunded or credited; and

(b) "Overpayment" or "payment where no tax was due" means the excess of the tax payments made over the correct tax liability determined under the terms of the applicable statute without reference to the constitutionality of the statute.

(2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 49.220 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Claims Commission or courts may direct.

(3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 49.220 and 131.110.

(4) ***Notwithstanding any provision of this section, when an assessment of limited liability entity tax is made under Section 41 of this Act against a pass-through entity as defined in Section 49 of this Act, the corporation or individual partners, members, or shareholders of the pass-through entity shall have one hundred eighty (180) days from the date of assessment to file returns to allow for items of income, deduction, and credit to be properly reported on the returns of the partners, members, or shareholders of the pass-through entity subject to adjustment.***

(5) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(6)~~[(5)]~~ Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.

(7)~~[(6)]~~ This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.

(8)~~[(7)]~~ In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

(9)~~[(8)]~~ No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.

(10)~~[(9)]~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:

(a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose;

(b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn; and

(c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.

(11)~~[(10)]~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:

(a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return; and

(b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for

any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

➔Section 13. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles:

(a) Held for sale by a licensed motor vehicle dealer, including licensed motor vehicle auction dealers;

(b) That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer; and

(c) With a salvage title held by an insurance company;

on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(1)***(e)***~~[(n)]~~ and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of two dollars ($2) pursuant to this section shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

➔SECTION 14. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED TO READ AS FOLLOWS:

(1) Beginning January 1, 2022, the bank franchise tax shall no longer apply to financial institutions.

(2) Beginning January 1, 2021, all financial institutions shall be subject to the corporation income tax under Section 40 of this Act and the limited liability entity tax under Section 41 of this Act.

(3) For the one (1) year during the transition from the bank franchise tax to the corporation income and limited liability entity taxes, there shall be allowed a refundable tax credit for income tax purposes under Section 40 of this Act equal to the amount of bank franchise tax paid for that one (1) year.

➔Section 15. KRS 136.500 is amended to read as follows:

As used in KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Billing address" means the location indicated in the books and records of the financial institution, on the first day of the taxable year or the date in the taxable year when the customer relationship began, as the address where any notice, statement, or bill relating to a customer's account is mailed;

(2) "Borrower located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state or a borrower that is not engaged in a trade or business;

(3) "Credit card holder located in this state" means a credit card holder whose billing address is in this state;

(4) "Department" means the Department of Revenue;

(5) "Commercial domicile" means:

(a) The location from which the trade or business is principally managed and directed; or

(b) The state of the United States or the District of Columbia from which the financial institution's trade or business in the United States is principally managed and directed, if a financial institution is organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year;

(6) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, the determination of whether the payments would constitute gross income to the employees under the Internal Revenue Code shall be made as though the employees were subject to the Internal Revenue Code;

(7) "Credit card" means credit, travel, or entertainment card;

(8) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because one (1) of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card;

(9) "Employee" means, with respect to a particular financial institution, "employee" as defined in Section 3121(d) of the Internal Revenue Code;

(10) "Financial institution" means:

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a

foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(11) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

(a) "Gross rents" includes but is not limited to:

1. Any amount payable for the use or possession of real property or tangible property, whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

2. Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

3. A proportionate part of the cost of any improvement to real property made by or on behalf of the financial institution which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the financial institution, the value of the land is determined by multiplying the gross rent by eight (8) and the value of the building is determined in the same manner as if owned by the financial institution;

(b) The following are not included in the term "gross rents":

1. Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

2. Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

3. Reasonable amounts payable for storage, if these amounts are payable for space not designated and not under the control of the financial institution; and

4. That portion of any rental payment which is applicable to the space subleased from the financial institution and not used by it;

(12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in effect on December 31, 2001, exclusive of any amendments made subsequent to that date;

(13) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, and the purchase, in whole or in part, of the extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under Section 595 of the Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment company, or other mortgage-backed or asset-backed security, and other similar items;

(14) "Loan secured by real property" means a loan or other obligation for which fifty percent (50%) or more of the aggregate value of the collateral used to secure the loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property;

(15) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program where a credit card is accepted in payment for merchandise or services sold to the card holder;

(16) "Person" means an individual, estate, trust, partnership, corporation, limited liability company, or any other business entity;

(17) "Principal base of operations" means:

(a) With respect to transportation property, the place from which the property is regularly directed or controlled; and

(b) With respect to an employee:

1. The place the employee regularly starts work and to which the employee customarily returns in order to receive instructions from his or her employer; or

2. If the place referred to in subparagraph 1. of this paragraph does not exist, the place the employee regularly communicates with customers or other persons; or

3. If the place referred to in subparagraph 2. of this paragraph does not exist, the place the employee regularly performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points;

(18) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the financial institution may claim depreciation for federal income tax purposes, or property to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure;

(19) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution;

(20) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country;

(21) "Syndication" means an extension of credit in which two (2) or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount;

(22) ***(a)*** "Taxable year" means calendar year 1996 ***through calendar year 2021.***~~[and every calendar year thereafter]~~

(b) "Taxable year" does not include any calendar year after 2021;

(23) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to the property, such as rolling stock, barges, or trailers;

(24) "United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States; and

(25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts, and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

➔Section 16. KRS 136.505 is amended to read as follows:

(1) Every financial institution regularly engaged in business in this Commonwealth at any time during the taxable year as determined under KRS 136.520 shall pay an annual state franchise tax for each taxable year or portion of a taxable year to be measured by its net capital as determined in KRS 136.515 and, for financial institutions with business activity that is taxable both within and without this Commonwealth, apportioned under KRS 136.525.

(2) The tax shall be in lieu of all city, county, and local taxes, except the real estate transfer tax levied in KRS Chapter 142, real property and tangible personal property taxes levied in KRS Chapter 132, taxes upon users of utility services, and the local franchise tax levied in KRS 136.575***, except that beginning in calendar year 2021 all financial institutions shall be subject to the corporation income tax under Section 40 of this Act and the limited liability entity tax under Section 41 of this Act***.

~~[(3) Every financial institution regularly engaged in business in this Commonwealth shall be subject to all state taxes in effect on July 15, 1996, except for the corporation income tax levied in KRS Chapter 141, the limited liability entity tax levied in KRS 141.0401, and the corporation license tax levied in this chapter]~~.

➔Section 17. KRS 136.602 is amended to read as follows:

As used in KRS 136.600 to 136.660:

(1) "Cable service" means the provision of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by

one (1) or more other communications service providers. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, and other similar services;

(2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to:

1. Local and long-distance telephone services;

2. Telegraph and teletypewriter services;

3. Prepaid calling services, and postpaid calling services;

4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;

5. Channel services involving a path of communications between two (2) or more points;

6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;

7. Caller ID services, ring tones, voice mail and other electronic messaging services;

8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and

9. Voice over Internet Protocol (VOIP);

(b) "Communications services" does not include information services or multichannel video programming service;

(3) "Department" means the Department of Revenue;

(4) "End user" means the person who utilized the multichannel video programming service. In the case of an entity, "end user" means the individual who used the service on behalf of the entity;

(5) "Engaged in business" means:

(a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of selling, delivering, taking orders, or performing any activities that help establish or maintain a marketplace for the provider;

(b) Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, agent or representative, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;

(c) Having real or tangible personal property in this state;

(d) Providing communications service by or through a customer's facilities located in this state;

(e) Soliciting orders from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or payment of the order utilizes the services of any financial institution, communications system, radio or television station, cable service, direct broadcast satellite or wireless cable service, print media, or other facility or service located in this state; or

(f) Soliciting orders from residents of this state on a continuous regular, systematic basis if the provider benefits from an agent or representative operating in this state under the authority of the provider to repair or service tangible personal property sold by the retailer;

(6) "Gross revenues" means all amounts received in money, credits, property, or other money's worth in any form, by a provider for furnishing multichannel video programming service or communications service in this state excluding amounts received from:

(a) Charges for Internet access as defined in 47 U.S.C. sec. 151; and

(b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision upon the purchase, sale, use, or other consumption of communications

services or multichannel video programming services that is permitted or required to be added to the sales price of the communications service or multichannel video programming service. This exclusion does not include any amount that the provider has retained as a reimbursement for collecting and remitting the tax to the appropriate taxing jurisdiction in a timely manner;

(7) "In this state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;

(8) "Multichannel video programming service" means ***live, scheduled, or on-demand*** programming provided by or generally considered comparable to ***or in competition with*** programming provided by a television broadcast station and shall include but not be limited to:

(a) Cable service;

(b) Satellite broadcast and wireless cable service;~~[and]~~

(c) Internet protocol television provided through wireline facilities without regard to delivery technology; ***and***

(d) Video streaming services;

(9) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company, nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

(10) "Place of primary use" means the street address where the end user's use of the multichannel video programming service primarily occurs;

(11) "Political subdivision" means a city, county, urban-county government, consolidated local government, or charter county government;

(12) "Provider" means any person receiving gross revenues for the provision of multichannel video programming service or communications service in this state;

(13) "Purchaser" means the person paying for multichannel video programming service;

(14) "Resale" means the purchase of a multichannel video programming service by a provider required to collect the tax levied by KRS 136.604 for sale, or incorporation into a multichannel video programming service for sale, including but not limited to:

(a) Charges paid by multichannel video programming service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider; and

(b) Charges for use of facilities for providing or receiving multichannel video programming services;

(15) "Retail purchase" means any purchase of a multichannel video programming service for any purpose other than resale;

(16) "Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication;

(17) "Sale" means the furnishing of a multichannel video programming service for consideration;

(18) (a) "Sales price" means the total amount billed by or on behalf of a provider for the sale of multichannel video programming services in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:

1. Any charge attributable to the connection, movement, change, or termination of a multichannel video programming service; or

2. Any charge for detail billing;

(b) "Sales price" does not include any of the following:

1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;

2. Charges for the sale or rental of tangible personal property;

3. Charges for billing and collection services provided to another multichannel video programming service provider;

4. Bad check charges;

5. Late payment charges;

6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, upon the purchase, sale, use, or consumption of any multichannel video programming service, that is permitted or required to be added to the sales price of the multichannel video programming service; or

7. Internet access as defined in 47 U.S.C. sec. 151;

(19) "Satellite broadcast and wireless cable service" means point-to-point or point-to-multipoint distribution services that include but are not limited to direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the purchaser. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, two (2) way service, and other similar services;

(20) "School district" means a school district as defined in KRS 160.010 and 160.020;~~[and]~~

(21) "Special district" means a special district as defined in KRS 65.005(2)(a) that currently levies on any provider or its customers the public service corporation property tax under KRS 136.120***; and***

(22) "Video streaming services" means programming that streams live events, movies, syndicated and television programming, or other audio-visual content over the Internet for viewing on a television or other electronic device with or without regard to a particular viewing schedule.

➔Section 18. KRS 136.990 is amended to read as follows:

(1) Any corporation that fails to pay its taxes, penalty, and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(2) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after April 30 of each year.

(3) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(4) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(5) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

(6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(7) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

(8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (4) to (6) of this section.

(9) Any person who violates any of the provisions of KRS 136.073~~[or KRS 136.090]~~ shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(10) If the tax imposed by~~[KRS 136.070 or]~~ KRS 136.073, whether assessed by the department or the taxpayer, or any installment or portion of the tax, is not paid on or before the date prescribed for its payment, interest shall be collected upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the department.

(11) Any provider who violates the provisions of KRS 136.616(3) shall be subject to a penalty of twenty-five dollars ($25) per purchaser offense, not to exceed ten thousand dollars ($10,000) per month.

➔Section 19. KRS 139.010 is amended to read as follows:

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

(1) ***(a)*** "Admissions" means the fees paid for:

1.~~[(a)]~~ The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and

2.~~[(b)]~~ The privilege of using facilities or participating in an event or activity, including but not limited to:

a.~~[1.]~~ Bowling centers;

b.~~[2.]~~ Skating rinks;

c.~~[3.]~~ Health spas;

d.~~[4.]~~ Swimming pools;

e.~~[5.]~~ Tennis courts;

f.~~[6.]~~ Weight training facilities;

g.~~[7.]~~ Fitness and recreational sports centers; and

h.~~[8.]~~ Golf courses, both public and private;

regardless of whether the fee paid is per use or in any other form, including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof**.**

(b) "Admissions" does not include:

1. Any fee paid to enter or participate in a fishing tournament; or

2. Any fee paid for the use of a boat ramp for the purpose of allowing boats to be launched into or hauled out from the water;

(2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;

(3) "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Department" means the Department of Revenue;

(6) (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.

(b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.

(c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;

(7) (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.

(c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;

(8) (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.

(b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;

(9) (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.

(b) "Digital code" shall not include a code that represents:

1. A stored monetary value that is deducted from a total as it is used by the purchaser; or

2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;

(10) (a) "Digital property" means any of the following which is transferred electronically:

1. Digital audio works;

2. Digital books;

3. Finished artwork;

4. Digital photographs;

5. Periodicals;

6. Newspapers;

7. Magazines;

8. Video greeting cards;

9. Audio greeting cards;

10. Video games;

11. Electronic games; or

12. Any digital code related to this property.

(b) "Digital property" shall not include digital audio-visual works or satellite radio programming;

(11) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address;

(12) "Directly used in the manufacturing or industrial processing process" means the process within a plant facility that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;

(13) ***(a)*** "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property or digital property according to the terms of the contract if:

1.~~[(a)]~~ The service contract agreement is sold or purchased on or after July 1, 2018; and

2.~~[(b)]~~ The tangible personal property or digital property for which the service contract agreement is provided is subject to tax under this chapter or under KRS 138.460**.**

(b) ***"Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in Section 17 of this Act or broadband as defined in KRS 278.5461***;

(14) (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.

(b) "Finished artwork" includes:

1. Assemblies;
2. Charts;
3. Designs;
4. Drawings;
5. Graphs;
6. Illustrative materials;
7. Lettering;
8. Mechanicals;
9. Paintings; and
10. Paste-ups;

(15) (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

1. The retailer's cost of the tangible personal property**,** ~~[or]~~ digital property***, or services*** sold;
2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
3. Charges by the retailer for any services necessary to complete the sale;
4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.

(b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:

1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
4. One (1) of the following criteria is met:

a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or

c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.

(c) "Gross receipts" and "sales price" shall not include:

1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;

2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(d) As used in this subsection, "third party" means a person other than the purchaser;

(16) "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;

(17) "Industrial processing" includes:

(a) Refining;

(b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

(c) Mining, quarrying, fabricating, and industrial assembling;

(d) The processing and packaging of raw materials, in-process materials, and finished products; and

(e) The processing and packaging of farm and dairy products for sale;

(18) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:

1. Purchase the property; or

2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).

(b) "Lease or rental" shall not include:

1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; or

3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.

(c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;

(19) (a) "Machinery for new and expanded industry" means machinery:

1. Directly used in the manufacturing or industrial processing process;

2. Which is incorporated for the first time into a plant facility established in this state; and

3. Which does not replace machinery in the plant facility unless that machinery purchased to replace existing machinery:

a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);

b. Performs different functions;

c. Is used to manufacture a different product; or

d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.

(b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;

(20) "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;

(21) "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell ***tangible personal property, digital property, or services,*** or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;

(22) ***(a)*** "Marketplace ***provider***~~[facilitator]~~" means a person***, including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:***

1. The person directly or indirectly:

a. Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;

b. Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, digital property, or services between a marketplace retailer and a purchaser in a forum including a shop, store, booth, catalog, Internet site, or similar forum;

c. Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace retailers to purchasers for the purpose of making retail sales of tangible personal property, digital property, or services;

d. Provides a marketplace for making retail sales of tangible personal property, digital property, or services, or otherwise facilitates retail sales of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services, that are the subject of the retail sale;

e. Provides software development or research and development activities related to any activity described in this subparagraph, if the software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;

f. Provides or offers fulfillment or storage services for a marketplace retailer;

g. Sets prices for a marketplace retailer's sale of tangible personal property, digital property, or services;

h. Provides or offers customer service to a marketplace retailer or a marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or

i. Brands or otherwise identifies sales as those of the marketplace provider; and

2. The person directly or indirectly:

a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;

b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;

c. Charges, collects, or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available tangible personal property, digital property, or services on a marketplace, or receives other consideration from the facilitation of a retail sale of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services that are the subject of the retail sale;

d. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or

e. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.

(b) "Marketplace provider" includes but is not limited to a person that satisfies the requirements of this subsection through the ownership, operation, or control of a digital distribution service, digital distribution platform, online portal, or application store~~[that facilitates the retail sale of tangible personal property or digital property by listing or advertising the tangible personal property for sale at retail and either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser, and transmits the payment to the person selling the property]~~;

(23) "Marketplace retailer" means a ***seller that makes retail sales through any marketplace owned, operated, or controlled by a marketplace provider***~~[person that has an agreement with a marketplace facilitator and makes retail sales of tangible personal property or digital property through a marketplace]~~;

(24) (a) "Occasional sale" includes:

1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or

2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

(b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;

(25) (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.

(b) "Other direct mail" includes but is not limited to:

1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;

2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and

3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.

(c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;

(26) "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

(27) "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;

(28) "Plant facility" means a single location that is exclusively dedicated to manufacturing or industrial processing activities. A location shall be deemed to be exclusively dedicated to manufacturing or industrial processing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing or industrial processing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;

(29) (a) "Prewritten computer software" means:

1. Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;

2. Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or

3. Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.

(b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made.

(c) The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;

(30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:

1. Tangible personal property;

2. An extended warranty service;~~[or]~~

3. Digital property transferred electronically; ***or***

4. Services included in Section 20 of this Act;

for a consideration.

(b) "Purchase" includes:

1. When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;

2. A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and

3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;

(31) "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;

(32) "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;

(33)~~["Referrer" means a person that:~~

~~(a) Contracts with a retailer or retailer's representative to advertise or list tangible personal property or digital property for sale or lease;~~

~~(b) Makes referrals by connecting a person to the retailer or the retailer's representative, but not acting as a marketplace facilitator; and~~

~~(c) Received in the prior calendar year or the current calendar year, in the aggregate, at least ten thousand dollars ($10,000) in consideration from remote retailers, marketplace retailers, or representatives of remote retailers or marketplace retailers for referrals on retail sales to purchasers in this state;~~

~~(34) (a)~~] "Remote retailer" means a retailer with no physical presence in this state~~[.~~

~~(b) "Remote retailer" does not include a marketplace facilitator or a referrer~~];

(34)~~[(35)]~~ (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.

(b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;

(35)~~[(36)]~~ (a) "Retailer" means:

1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services ***in a retail sale*** included in KRS 139.200;

2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;

3. Every person making more than two (2) retail sales of tangible personal property***,***~~[or]~~ digital property***, or services included in Section 20 of this Act*** during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.

(b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property***,***~~[or]~~ digital property***, or services*** sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

(c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:

a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;

b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and

c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.

2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.

3. For purposes of this paragraph, "qualifying entity" means a resident:

a. Church;

b. School;

c. Civic club; or

d. Any other nonprofit charitable, religious, or educational organization;

(36)~~[(37)]~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;

(37)~~[(38)]~~ (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;

(38) ~~[(39)]~~ (a) "Sale" means:

1. The furnishing of any services included in KRS 139.200;

2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:

   a. Tangible personal property; or

   b. Digital property transferred electronically;

for a consideration.

(b) "Sale" includes but is not limited to:

1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;

2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and

3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.

(c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;

(39) ~~[(40)]~~ "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;

(40) ~~[(41)]~~ (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property or digital property purchased from a retailer.

(b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;

(41) ~~[(42)]~~ "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;

(42) ~~[(43)]~~ "Taxpayer" means any person liable for tax under this chapter;

(43) ~~[(44)]~~ "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and

(44) ~~[(45)]~~ (a) "Use" includes the exercise of:

1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property where the right of access is granted; or

2. Any right or power to benefit from extended warranty services.

(b) "Use" does not include the keeping, retaining, or exercising any right or power over tangible personal property or digital property for the purpose of:

1. Selling tangible personal property or digital property in the regular course of business; or

2. Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into,

attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

➔Section 20. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

(1) Retail sales of:

(a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and

(b) Digital property regardless of whether:

1. The purchaser has the right to permanently use the property;

2. The purchaser's right to access or retain the property is not permanent; or

3. The purchaser's right of use is conditioned upon continued payment; and

(2) The furnishing of the following:

(a) The rental of any room or rooms, lodgings, campsites, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which rooms, lodgings, campsites, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions, except:

1. Admissions to racetracks taxed under KRS 138.480;

2. Admissions to historical sites exempt under KRS 139.482;~~[and]~~

3. ***Admissions taxed under KRS 229.031;***

4. Admissions charged by nonprofit educational, charitable, or religious institutions exempt under Section 28 of this Act; and

5. Admissions charged by nonprofit civic, governmental, or other nonprofit organizations exempt under Section 29 of this Act~~[A portion of the admissions to county fairs exempt under KRS 139.470]~~;

(d) Prepaid calling service and prepaid wireless calling service;

(e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;

(f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:

1. For natural gas that is classified as residential use as provided in KRS 139.470(7); or

2. To a seller or reseller of natural gas;

(g) Landscaping services, including but not limited to:

1. Lawn care and maintenance services;

2. Tree trimming, pruning, or removal services;

3. Landscape design and installation services;

4. Landscape care and maintenance services; and

5. Snow plowing or removal services;

(h) Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;

(i) Small animal veterinary services, excluding veterinary services for equine, cattle, ***poultry,*** swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;

(j) Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;

(k) Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;

(l) Non-coin-operated laundry and dry cleaning services;

(m) Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;

(n) Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;

(o) Non-medical diet and weight reducing services;

(p) Limousine services, if a driver is provided; and

(q) Extended warranty services.

➔Section 21. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, digital property, and services sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale of:

(1) Tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:

(a) Purchased for resale according to the provisions of KRS 139.270;

(b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or

(c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization;~~[and]~~

(2) A service ***included in paragraphs (a) to (f) in subsection (2) of Section 20 of this Act*** unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270***; and***

(3) A service included in paragraphs (g) to (q) in subsection (2) of Section 20 of this Act unless the person takes from the purchaser a certificate to the effect that the property is:

(a) Purchased for resale according to Section 22 of this Act;

(b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with Section 22 of this Act; or

(c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization.

➔Section 22. KRS 139.270 is amended to read as follows:

(1) The resale certificate, certificate of exemption, or Streamlined Sales and Use Tax Agreement Certificate of Exemption relieves the retailer or seller from the burden of proof if the retailer or seller:

(a) Within ninety (90) days after the date of sale:

1. Obtains a fully completed resale certificate, certificate of exemption, or Streamlined Sales and Use Tax Agreement Certificate of Exemption; or

2. Captures the relevant data elements that correspond to the information that the purchaser would otherwise provide to the retailer or seller on the Streamlined Sales and Use Tax Agreement Certificate of Exemption; and

(b) Maintains a file of the certificate obtained or relevant data elements captured in accordance with KRS 139.720.

(2) The relief from liability provided to the retailer or the seller in this section does not apply to a retailer or seller who:

(a) Fraudulently fails to collect the tax;

(b) Solicits purchasers to participate in the unlawful claiming of an exemption; or

(c) Accepts an exemption certificate when the purchaser claims an entity-based exemption when:

1. The product sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the retailer or seller; and

2. The state in which that location resides provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in that state.

For purposes of this paragraph, "entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption available to all individuals shall not be considered an entity-based exemption.

(3) (a) If the department requests that the seller or retailer substantiate that the sale was a sale for resale or an exempt sale and the retailer or seller has not complied with subsection (1) of this section, the seller or retailer shall be relieved of any liability for the tax on the transaction if the seller or retailer, within one hundred twenty (120) days of the department's request:

1. Obtains a fully completed resale certificate, exemption certificate, or Streamlined Sales and Use Tax Agreement Certificate of Exemption from the purchaser for an exemption that:

a. Was available under this chapter on the date the transaction occurred;

b. Could be applicable to the item being purchased; and

c. Is reasonable for the purchaser's type of business; or

2. Obtains other information establishing that the transaction was not subject to the tax.

(b) Notwithstanding paragraph (a) of this subsection, if the department discovers through the audit process that the seller or retailer had knowledge or had reason to know at the time the information was provided that the information relating to the exemption claimed was materially false, or the seller or retailer otherwise knowingly participated in activity intended to purposefully evade the tax that is properly due on the transaction, the seller or retailer shall not be relieved of the tax on the transaction. The department shall bear the burden of proof that the seller or retailer had knowledge or had reason to know at the time the information was provided that the information was materially false.

(4) Notwithstanding subsections (1) and (3) of this section, the seller or retailer may still offer additional documentation that is acceptable by the department that the transaction is not subject to tax and to relieve the seller or retailer from the tax liability.

(5) If the department later finds that the retailer or seller complied with subsections (1), (3), and (4) of this section, but that the purchaser used the property ***or service*** in a manner that would not have qualified for resale status or the purchaser issued a certificate of exemption or a Streamlined Sales and Use Tax Agreement Certificate of Exemption and used the property ***or service*** in some other manner or for some other purpose, the department shall hold the purchaser liable for the remittance of the tax ***originally due*** and may apply penalties provided in KRS 139.990.

➔Section 23. KRS 139.280 is amended to read as follows:

(1) The resale certificate shall:

(a) Be signed by and bear the name and address of the purchaser;

(b) Indicate the number of the permit issued to the purchaser;

(c) Indicate the general character of the tangible personal property**,**~~[or]~~ digital property***, or services*** sold by the purchaser in the regular course of business.

(2) The certificate shall be substantially in a form as the department may prescribe.

(3) A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.

➔Section 24. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.

(2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property, digital property, or an extended warranty service. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property, digital property, or an extended warranty service from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;

(e) Any retailer soliciting orders for tangible personal property, digital property, or an extended warranty service from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;

(f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; or

(g) ***1.*** Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state***, including retail sales facilitated by a marketplace provider on behalf of the remote retailer,*** if:

a.~~[1.]~~ The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or

b.~~[2.]~~ The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars ($100,000).

2. Any remote retailer that meets either threshold provided in subparagraph 1. of this paragraph shall register for a sales and use tax permit and collect the tax imposed by KRS 139.310 from the purchaser by the first day of the calendar month that begins no later than thirty (30) days after either threshold is reached.

➔Section 25. KRS 139.450 is amended to read as follows:

(1) It shall be presumed that***:***

(a) Tangible personal property shipped or brought to this state by the purchaser***; or***

(b) Digital property delivered or transferred electronically into this state;

was purchased from a retailer for storage, use, or other consumption in this state.

(2) (a) ***A marketplace provider that makes retail sales on its own behalf or facilitates retail sales of tangible personal property, digital property, or services that are delivered or transferred electronically to a purchaser in this state for one (1) or more marketplace retailers that in any sales combination exceeds one hundred thousand dollars ($100,000) or reaches two hundred (200) or more separate transactions in the immediately preceding calendar year or current calendar year shall be subject to this section.***

(b) The marketplace provider shall:

1. Register for a sales and use tax permit number to report and remit the tax due on the marketplace provider's sales;

2. Register for a separate sales and use tax permit number to report and remit the tax due on all of the sales it facilitates for one (1) or more marketplace retailers; and

3. Collect tax imposed under this chapter;

by the first day of the calendar month that begins no later than thirty (30) days after either threshold in paragraph (a) of this subsection is reached.

(c) The marketplace provider shall collect Kentucky tax on the entire sales price or purchase price paid by a purchaser on each retail sale subject to tax under this chapter that is made on its own behalf or that is facilitated by the marketplace provider, regardless of whether the seller would have been required to collect the tax had the retail sale not been facilitated by the marketplace provider.

(3) Nothing in this section shall be construed to relieve the marketplace provider of liability for collecting but failing to remit the taxes imposed under this chapter.

(4) (a) The marketplace provider shall be subject to audit on all sales made on its own behalf and on all sales facilitated by the marketplace provider.

(b) The marketplace retailer shall be relieved of all liability for the collection and remittance of the sales or use tax on sales facilitated by the marketplace provider.

(5) No class action may be brought against a marketplace provider on behalf of purchasers arising from or in any way related to an overpayment of tax collected by the marketplace provider. ~~[Except as provided in subsection (8) of this section, every retailer that:~~

~~1. Is making sales of tangible personal property or digital property from a place outside this state for storage, use, or other consumption in this state; and~~

~~2. Is not required to collect the use tax under KRS 139.340;~~

~~shall notify the purchaser that the purchaser is required to report and pay the Kentucky use tax directly to the department on purchases from that retailer unless the purchases are otherwise exempt under this chapter.~~

~~(b) The required use tax notification shall be readily visible and shall be included on the retailer's Internet Web site, retail catalog, and invoices provided to the purchaser, as provided in subsection (4) of this section.~~

~~(c) A retailer shall not advertise, state, display, or imply on the retailer's Internet Web site or retail catalog that there is no Kentucky tax due on the purchases made from the retailer.~~

~~(3) The use tax notification required by subsection (2) of this section shall contain the following language:~~

~~(a) "The retailer is not required to and does not collect Kentucky sales or use tax.";~~

~~(b) "The purchase may be subject to Kentucky use tax unless the purchase is exempt from taxation in Kentucky.";~~

~~(c) "The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means."; and~~

~~(d) "The Commonwealth of Kentucky requires Kentucky purchasers to report all purchases of tangible personal property or digital property that are not taxed by the retailer and pay use tax on those purchases unless exempt under Kentucky law. The tax may be reported and paid on the Kentucky individual income tax return or by filing a consumer use tax return with the Kentucky Department of~~

~~Revenue. These forms and corresponding instructions may be found on the Kentucky Department of Revenue's Internet Web site.".~~

~~(4) Except as provided in subsection (5) of this section, the retailer shall include the exact required use tax notification language provided in subsection (3) of this section on the:~~

~~(a) Internet Web site page necessary to facilitate an online sales transaction;~~

~~(b) Electronic order confirmation or, if an electronic order confirmation is not issued, the required use tax notification shall be included on the purchase order, invoice, bill, receipt, sales slip, order form, or packing statement; and~~

~~(c) Catalog order form, purchase order, invoice, bill, receipt, sales slip, or packing statement.~~

~~(5) If the retailer provides a prominent reference to a supplemental page in the retailer's catalog or on the retailer's Internet Web site, or provides a prominent electronic linking notice on the retailers' Internet Web site, that states, "See important Kentucky sales and use tax information regarding tax you may owe directly to the Commonwealth of Kentucky," and that supplemental page or electronic link contains the required use tax notification language as provided in subsection (3) of this section, the retailer is relieved from the requirements of subsection (4) of this section.~~

~~(6) If the retailer is required to provide a similar use tax notification for another state in addition to the use tax notification required by this section, the retailer may provide a consolidated notification if the consolidated notification meets the requirements of this section.~~

~~(7) Except for the notification requirement on invoices in subsection (4)(c) of this section, subsections (2) to (8) of this section shall also apply to online auction Web sites. For purposes of this section, "online auction Web site" means a collection of Internet Web pages that allows persons to display tangible personal property or digital property for sale that is purchased through a competitive process where participants place bids with the highest bidder purchasing the item when the bidding period ends.~~

~~(8) Any retailer that made total gross sales of less than one hundred thousand dollars ($100,000) to Kentucky residents or businesses located in Kentucky, and that reasonably expects that its Kentucky sales in the current calendar year will be less than one hundred thousand dollars ($100,000), shall be exempt from subsections (2) to (8) of this section]~~.

➔Section 26. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;

(4) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(5) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a

vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the department;

(b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(8) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(9) (a) Gross receipts derived from the sale of, the following tangible personal property to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of tangible personal property at a plant facility and which will be for sale:

1. Materials which enter into and become an ingredient or component part of the manufactured product;

2. Other tangible personal property which is directly used in the manufacturing or industrial processing process, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, and explosives. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; and

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, and cutting blades. Normally, for industrial tools to be considered directly used in the manufacturing or industrial processing process, they shall come into direct contact with the product being manufactured or processed; and

3. Materials and supplies that are not reusable in the same manufacturing or industrial processing process at the completion of a single manufacturing or processing cycle. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) The property described in paragraph (a) of this subsection shall be regarded as having been purchased for resale.

(c) For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(d) The exemption provided in this subsection does not include repair, replacement, or spare parts;

(10) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(12) Gross receipts from the sale of water used in the raising of equine as a business;

(13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(14) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(15) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer

to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

(16) Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;

(17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(18) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:

(a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or

(b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:

1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or

2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;

(20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);

(21)~~[Gross receipts from the first fifty thousand dollars ($50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board;~~

~~(22)]~~ Gross receipts from the collection of:

(a) Any fee or charge levied by a local government pursuant to KRS 65.760;

(b) The charge imposed by KRS 65.7629(3);

(c) The fee imposed by KRS 65.7634; and

(d) The service charge imposed by KRS 65.7636;~~[and]~~

(22)~~[(23)]~~ Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process, and that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser***;***

(23) (a) For persons selling services included in subsection (2)(g) to (q) of Section 20 of this Act prior to January 1, 2019, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars ($6,000) during calendar year 2018. When gross receipts from these services exceed six thousand dollars ($6,000) in a calendar year:

1. All gross receipts over six thousand dollars ($6,000) are taxable in that calendar year; and

2. All gross receipts are subject to tax in subsequent calendar years.

(b) The exemption provided in this subsection shall not apply to a person also engaged in the business of selling tangible personal property, digital property, or services included in subsection (2)(a) to (f) of Section 20 of this Act; and

(24) (a) For persons that first begin making sales of services included in subsection (2)(g) to (q) of Section 20 of this Act on or after January 1, 2019, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars ($6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars ($6,000) in a calendar year:

1. All gross receipts over six thousand dollars ($6,000) are taxable in that calendar year; and

2. All gross receipts are subject to tax in subsequent calendar years.

(b) The exemption provided in this subsection shall not apply to a person that is also engaged in the business of selling tangible personal property, digital property, or services included in subsection (2)(a) to (f) of Section 20 of this Act.

➔Section 27. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.

(b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.

(c) ~~[If]~~A person who~~[independently]~~ performs a manufacturing or industrial processing~~[production]~~ activity for a fee~~[, applies for the exemption under this subsection,]~~ and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of the manufacturing or industrial processing activity ***is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.***

(d) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:~~[, then all costs of production, including raw material costs, shall be allocated in proportion to all manufacturing or industrial processing operations at the plant facility;]~~

1. Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;

2. Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;

3. Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;

4. Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and

5. Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility.

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery":

(a) Means machinery used exclusively and directly in the occupation of:

1. Tilling the soil for the production of crops as a business;

2. Raising and feeding livestock or poultry for sale; or

3. Producing milk for sale;

(b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and

(c) Does not include:

1. Automobiles;

2. Trucks;

3. Trailers, except combine header trailers; or

4. Truck-trailer combinations;

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

(a) Operate farm machinery as defined in subsection (11) of this section;

(b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;

(c) Operate on-farm poultry or livestock facilities defined in subsection (14) of this section;

(d) Operate on-farm ratite facilities defined in subsection (23) of this section;

(e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or

(f) Operate on-farm dairy facilities;

(16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(20) (a) 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and

2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.

(b) The exemptions provided in this subsection shall be effective for sales made:

1. On and after July 1, 2018; and

2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;

(21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the

exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(26) Baling twine and baling wire for the baling of hay and straw;

(27) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

(28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

(c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and

(c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes; and

(32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy.

➔Section 28. KRS 139.495 is amended to read as follows:

(1) The taxes imposed by this chapter shall apply to:

(a) Resident, nonprofit educational, charitable, or religious institutions which have qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(b) Any resident, single member limited liability company that is:

1. Wholly owned and controlled by a resident or nonresident, nonprofit educational, charitable, or religious institution which has qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code; and

2. Disregarded as an entity separate from the resident or nonresident, nonprofit educational, charitable, or religious institution for federal income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2;

as provided in this section.

(2) Tax does not apply to***:***

(a) ***1.*** Sales of tangible personal property, digital property, or services to these institutions or limited liability companies described in subsection (1) of this section, provided the tangible personal property, digital property, or service is to be used solely in this state within the educational, charitable, or religious function***;*** ~~[.]~~

2. ~~[(3) Tax does not apply to]~~Sales of food to students in school cafeterias or lunchrooms***;*** ~~[.]~~

3. ~~[(4) Tax does not apply to]~~Sales by school bookstores of textbooks, workbooks, and other course materials***;*** ~~[.]~~

4. ~~[(5) Tax does not apply to]~~Sales by nonprofit, school sponsored clubs and organizations, provided such sales do not include tickets for athletic events***;***

5. Sales of admissions by nonprofit educational, charitable, or religious institutions described in subsection (1) of this section; or

6. a. Fundraising event sales made by nonprofit educational, charitable, or religious institutions and limited liability companies described in subsection (1) of this section.

b. For the purposes of this subparagraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.

(b) The exemptions provided in subparagraphs 5. and 6. of paragraph (a) of this subsection shall not apply to sales generated by or arising at a tourism development project approved under KRS 148.851 to 148.860.

(3) ~~[(6)]~~ An institution shall be entitled to a refund equal to twenty-five percent (25%) of the tax collected on its sale of donated goods if the refund is used exclusively as reimbursement for capital construction costs of additional retail locations in this state, provided the institution:

(a) Routinely sells donated items;

(b) Provides job training and employment to individuals with workplace disadvantages and disabilities;

(c) Spends at least seventy-five percent (75%) of its annual revenue on job training, job placement, or other related community services;

(d) Submits a refund application to the department within sixty (60) days after the new retail location opens for business; and

(e) Provides records of capital construction costs for the new retail location and any other information the department deems necessary to process the refund.

The maximum refund allowed for any location shall not exceed one million dollars ($1,000,000). As used in this subsection, "capital construction cost" means the cost of construction of any new facilities or the purchase and renovation of any existing facilities, but does not include the cost of real property other than real property designated as a brownfield site as defined in KRS 65.680(4).

(4) ~~[(7)]~~ Notwithstanding any other provision of law to the contrary, refunds under subsection ***(3)*** ~~[(6)]~~ of this section shall be made directly to the institution. Interest shall not be allowed or paid on the refund. The department may examine any refund within four (4) years from the date the refund application is received. Any overpayment shall be subject to the interest provisions of KRS 131.183 and the penalty provisions of KRS 131.180.

(5) ~~[(8)]~~ All other sales made by nonprofit educational, charitable, or religious institutions or limited liability companies described in subsection (1) of this section are taxable and the tax may be passed on to the ***purchaser*** ~~[customer]~~ as provided in KRS 139.210.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as described in Section 28 of this Act and KRS 139.497, the taxes imposed by this chapter do not apply to:

1. The sale of admissions; or

2. a. Fundraising event sales.

b. For the purposes of this paragraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.

(b) The exemption provided in subparagraph 1. of paragraph (a) of this subsection shall not apply to the sale of admissions to a public facility that qualifies for a sales tax rebate under Section 31 of this Act.

(2) All other sales made by organizations referred to in subsection (1) of this section are taxable.

➔Section 30. KRS 139.496 is amended to read as follows:

(1) ~~[Notwithstanding any other provisions of this chapter,]~~The taxes imposed ***in this chapter*** ~~[herein]~~ do not apply to the first one thousand dollars ($1,000) of sales made in any calendar year by individuals~~[or nonprofit organizations]~~ not engaged in the business of selling. This exemption is limited to ~~[the following types of transactions or activities:~~

~~(a)]~~garage or yard sales of household items by an individual or family which are in no way associated with or related to the operation of a business~~[;~~

~~(b) Fundraising event held by nonprofit civic, governmental, or other nonprofit organizations, except as set forth in KRS 139.497]~~.

(2) The exemption does not apply to activities in which all or substantially all the household goods of a person are offered for sale~~[or where nonprofit organizations conduct regular selling activities in competition with private business]~~.

➔Section 31. KRS 139.533 is amended to read as follows:

(1) ***Beginning July 1, 2020, no additional applications for a sales tax rebate shall be accepted under this section. Any qualified applicant which has applied and been granted a sales tax rebate under this section shall continue to receive the sales tax rebates provided by this section as long as the governmental entity continues to qualify for the sales tax rebate under this section.***

(2) As used in this section:

(a) "Effective date" means the first day of the month following the month in which the department notifies the governmental entity that it is eligible to receive a sales tax rebate;

(b) "Governmental entity" means:

1. Any county with a population of less than one hundred thousand (100,000) residents; or

2. Any city, agency, instrumentality, quasi-governmental entity, or other political subdivision of the Commonwealth that is located in a county with a population of less than one hundred thousand (100,000) residents; and

(c) 1. "Public facility" means a building owned and operated by a governmental entity that is a multipurpose facility open to the general public for performances and programs relating to arts, sports, and entertainment and which includes at least five hundred (500) seats but not more than eight thousand (8,000) seats.

2. "Public facility" does not include a university, college, or school gymnasium or auditorium.

(3) ~~[(2)]~~ (a) Notwithstanding KRS 134.580 and 139.770, effective July 1, 2010, a governmental entity may be granted a sales tax rebate of up to one hundred percent (100%) of the Kentucky sales tax generated by the sale of admissions to the public facility and the sale of tangible personal property at the public facility. The tax rebate shall be reduced by the vendor compensation allowed under KRS 139.570 on or after July 1, 2010.

(b) The governmental entity shall have no obligation to refund or otherwise return any amount of the sales tax rebate to the persons from whom the sales tax was collected.

(c) The total tax rebate for each public facility shall not exceed two hundred fifty thousand dollars ($250,000) in each calendar year.

(4) ~~[(3)]~~ (a) To be eligible for a sales tax rebate under this section, the governmental entity shall file an application with the department in the form prescribed by the department through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.

(b) The department shall:

1. Review the application;

2. Determine whether the applicant meets the requirements of this section; and

3. Notify the applicant in writing whether the applicant qualifies for a rebate and the effective date of qualification.

(5) ~~[(4)]~~ A qualified applicant shall file a request for a sales tax rebate within sixty (60) days following the end of each calendar quarter for sales made during the quarter. The request shall be submitted in the form prescribed by the department through the promulgation of an administrative regulation in accordance with KRS Chapter 13A, and shall include supporting information and documentation as determined necessary by the department to verify the requested tax rebate.

(6) ~~[(5)]~~ The department shall review the request, verify the amount of sales tax rebate due to the governmental entity, and pay the amount determined due within forty-five (45) days of receipt of the request and all necessary supporting information to the extent the cap established by subsection (2)(c) of this section has not been met.

(7) ~~[(6)]~~ Interest shall not be allowed or paid on any sales tax rebate payment made under this section.

➔Section 32. KRS 139.536 is amended to read as follows:

(1) ***Beginning July 1, 2020, no applications for the incentives under Section 32 of this Act and KRS 148.851 to 148.860 shall be accepted. All projects with preliminary or final approval under Section 32 of this Act and KRS 148.851 to 148.860 on June 30, 2020, shall continue to be governed by Section 32 of this Act and KRS 148.851 to 148.860.***

(2) As used in this section:

(a) "Agreement" means the same as defined in KRS 148.851;

(b) "Approved company" means the same as defined in KRS 148.851;

(c) "Approved costs" means the same as defined in KRS 148.851;

(d) "Authority" means the same as defined in KRS 148.851;

(e) "Cabinet" means the same as defined in KRS 148.851;

(f) "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet; and

(g) "Tourism development project" means the same as defined in KRS 148.851.

(3) ~~[(2)]~~ (a) In consideration of the execution of the agreement and notwithstanding any provision of KRS 139.770 to the contrary, the approved company excluding its lessees, may be granted a sales tax incentive based on the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism development project as provided in KRS 148.853.

(b) The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected.

(4) ~~[(3)]~~ The authority shall notify the department upon approval of a tourism development project. The notification shall include the name of the approved company, the name of the tourism development project, the date on which the approved company is eligible to receive incentives under this section, the term of the agreement, the estimated approved costs, and the specified percentage of the approved costs that the approved company is eligible to receive and any other information that the department may require.

(5) ~~[(4)]~~ The sales tax incentive shall be reduced by the amount of vendor compensation allowed under KRS 139.570.

(6) ~~[(5)]~~ The approved company seeking the incentives shall execute information-sharing agreements prescribed by the department with its lessees and other related parties to verify the amount of sales tax eligible for the sales tax refund under this section.

(7) ~~[(6)]~~ By October 1 of each year, the department shall certify to the authority and the secretary the sales tax liability of the approved companies receiving incentives under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to this section for the preceding fiscal year.

(8) ~~[(7)]~~ Interest shall not be allowed or paid on any refund made under the provisions of this section.

(9) ~~[(8)]~~ The department may promulgate administrative regulations and require the filing of forms designed by the department to reflect the intent of this section and KRS 148.851 to 148.860.

➔Section 33. KRS 139.550 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department in a form the department may prescribe.

(2) ***(a)*** For purposes of the sales tax, a return shall be filed by every retailer or seller.

(b) For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, digital property, or an extended warranty service, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.

(c) If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.

(d) When a remote retailer's product is sold through a marketplace, then the marketplace provider that facilitated the sale shall file the return and remit the tax due on those sales.

(3) Returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.

(4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under rules as the department shall provide for the efficient collection of the sales tax on sales.

(5) The return shall show the amount of the taxes for the period covered by the return and other information the department deems necessary for the proper administration of this chapter.

➔Section 34. KRS 139.720 is amended to read as follows:

(1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property, digital property, or ***services included in Section 20 of this Act*** ~~[an extended warranty service]~~ purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the department may require.

(2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the department in writing sooner authorizes their destruction.

➔Section 35. KRS 141.010 is amended to read as follows:

As used in this chapter, for taxable years beginning on or after January 1, 2018:

(1) "Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in KRS 141.019;

(2) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:

(a) 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or

2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;

(b) 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:

a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or

b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and

2. For the purposes of this paragraph:

a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to KRS 141.200; and

b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and

(c) The real estate investment trust is not owned by another real estate investment trust;

(3) "Commissioner" means the commissioner of the department;

(4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;

(5) "Department" means the Department of Revenue;

(6) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(7) "Doing business in this state" includes but is not limited to:

(a) Being organized under the laws of this state;

(b) Having a commercial domicile in this state;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services in this state;

(e) Maintaining an interest in a pass-through entity doing business in this state;

(f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or

(g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

(8) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;

(9) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;

(10) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;

(11) ***"Financial institution" means:***

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(12) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;

(13) ~~[(12)]~~ "Gross income":

(a) In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and

(b) In the case of corporations, means the amount calculated in KRS 141.039;

(14) ~~[(13)]~~ "Individual" means a natural person;

(15) ~~[(14)]~~ "Internal Revenue Code" means***:***

(a) For taxable years beginning on or after January 1, 2018, but before January 1, 2019, the Internal Revenue Code in effect on December 31, 2017, including the provisions contained in Pub. L. No. 115-97 ***apply to the same taxable year as the provisions apply for federal purposes***, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2017, that would otherwise terminate; ***and***

(b) For taxable years beginning on or after January 1, 2019, the Internal Revenue Code in effect on December 31, 2018, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2018, that would otherwise terminate;

(16) ~~[(15)]~~ "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;

(17) ~~[(16)]~~ "Modified gross income" means the greater of:

(a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:

1. Include interest income derived from obligations of sister states and political subdivisions thereof; and

2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

(b) Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

(18) ~~[(17)]~~ "Net income":

(a) In the case of taxpayers other than corporations, means the amount calculated in KRS 141.019; and

(b) In the case of corporations, means the amount calculated in KRS 141.039;

(19) ~~[(18)]~~ "Nonresident" means any individual not a resident of this state;

(20) ~~[(19)]~~ "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(21) ~~[(20)]~~ "Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;

(22) ~~[(21)]~~ "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;

(23) ~~[(22)]~~ "Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;

(24) ~~[(23)]~~ "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;

(25) ~~[(24)]~~ "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(26) ~~[(25)]~~ "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;

(27) ~~[(26)]~~ "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(28) ~~[(27)]~~ "Taxable net income":

(a) In the case of corporations that are taxable in this state, means "net income" as defined in subsection ***(18)*** ~~[(17)]~~ of this section;

(b) In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection ***(18)*** ~~[(17)]~~ of this section and as allocated and apportioned under KRS 141.120;

(c) For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection ***(15)*** ~~[(14)]~~ of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(d) For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;

(29) ~~[(28)]~~ "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and

(30) ~~[(29)]~~ "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

➔Section 36. KRS 141.0101 is amended to read as follows:

(1) (a) The provisions of subsections (2) to (11) of this section shall apply to taxable years beginning before January 1, 1994.

(b) The provisions of subsections (12) to (15) of this section shall apply to taxable years beginning after December 31, 1993.

(c) The provisions of subsection (16) of this section apply to property placed in service after September 10, 2001.

(2) For property placed in service prior to January 1, 1990, in lieu of the depreciation and expense deductions allowed under Internal Revenue Code Sections 168 and 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and tear, and obsolescence of property used in a trade or business shall be allowed and computed as set out in subsections (3) to (11) of this section. For property placed in service after December 31, 1989, the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code shall be allowed.

(3) Effective August 1, 1985, "reasonable allowance" as used in subsection (2) of this section shall mean depreciation computed in accordance with Section 167 of the Internal Revenue Code and related regulations in effect on December 31, 1980, for all property placed in service on or after January 1, 1981, except as provided in subsections (6) to (8) of this section.

(4) Depreciation of property placed in service prior to January 1, 1981, shall be computed under Section 167 of the Internal Revenue Code, and the method elected thereunder at the time the property was first placed in service or as changed with the approval of the Commissioner of Internal Revenue Service or as required by changes in federal regulations.

(5) Taxpayers other than corporations shall be allowed to deduct as depreciation on recovery property placed in service before August 1, 1985, an amount calculated under Section 168 of the Internal Revenue Code subject to the provisions of subsections (6) and (8) of this section. Corporations with a taxable year beginning on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for depreciation on recovery property placed in service prior to August 1, 1985, using either of the following alternative methods:

(a) Dividing the total of the deductions allowed under Internal Revenue Code Section 168 by one and four tenths (1.4); and

(b) Calculating the deduction that would be allowed or allowable under the provisions of Section 167 of the Internal Revenue Code.

(6) Recovery property placed in service on or after January 1, 1981, and before August 1, 1985, and subject to transition under subsection (8) of this section, shall be subject to depreciation under Section 167 of the Internal Revenue Code, restricted to the straight line method therein provided over the remaining useful life of such assets.

(7) Depreciation of property placed in service on or after August 1, 1985, shall be computed under Section 167 of the Internal Revenue Code.

(8) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost Recovery System (ACRS) depreciation, to the depreciation allowed or allowable under this section shall be reported in the first taxable year beginning on or after August 1, 1985. To implement the transition, the following adjustments shall be made:

(a) Taxpayers other than corporations shall use the adjusted Kentucky basis for property placed in service on or after January 1, 1981. "Adjusted Kentucky basis" means the basis used for determining depreciation under Section 168 of the Internal Revenue Code less the allowed or allowable depreciation and adjustment for election to expense an asset (Section 179 of the Internal Revenue Code);

(b) Corporations shall adjust the federal unadjusted basis by increasing such basis by the ACRS depreciation not allowed as a deduction in determining Kentucky net income for tax years beginning after June 30, 1984, less allowed or allowable ACRS depreciation for federal income tax purposes. Corporations will not be permitted to adjust the basis by the ACRS depreciation not allowed for Kentucky income tax purposes in tax years beginning on or before June 30, 1984.

(9) A taxpayer may elect to treat the cost of property placed in service on or before July 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1981, except that the aggregate cost which may be expensed for corporations shall not exceed five thousand dollars ($5,000). A taxpayer may elect to treat the cost of property placed in service on or after August 1, 1985, as an expense as

provided in Section 179 of the Internal Revenue Code in effect on December 31, 1980. Computations, limitations, definitions, exceptions, and other provisions of Section 179 of the Internal Revenue Code and related regulations shall be construed to govern the computation of the allowable deduction.

(10) Upon the sale, exchange, or disposition of any depreciable property placed in service on or after January 1, 1981, capital gains or losses and the amount of ordinary income determined under the provisions of the Internal Revenue Code shall be computed for Kentucky income tax purposes as follows:

(a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced by any basis adjustment made by the taxpayer under Section 48(q)(1) of the Internal Revenue Code and any expense allowed and utilized under Section 179 of the Internal Revenue Code (First Year Expense) in determining Kentucky net income in prior years, and

(b) Compute the adjusted basis by subtracting the depreciation allowed or allowable for Kentucky income tax purposes from the unadjusted basis, except corporations will not be permitted to adjust the basis of assets by the ACRS depreciation not allowed for Kentucky income tax purposes in the tax years beginning on or before June 30, 1984, and

(c) Compute the gain or loss by subtracting the adjusted basis from the value received from the disposition of the depreciable property, and

(d) Compute the recapture of depreciation required under Sections 1245 through 1256 of the Internal Revenue Code and related regulations, and

(e) Unless otherwise provided in this subsection the provisions of the Internal Revenue Code and related regulations governing the determination of capital gains or losses shall apply for Kentucky income tax purposes.

(11) Unless otherwise provided by this chapter, the basis of property placed in service prior to January 1, 1990, for purposes of Kentucky income tax shall be the basis, adjusted or unadjusted, required to be used under Section 167 of the Internal Revenue Code in effect on December 31, 1980.

(12) As used in this subsection to subsection (14) of this section:

(a) "Transition property" means any property placed in service before the first day of the first taxable year beginning after December 31, 1993, and owned by the taxpayer on the first day of the first taxable year beginning after December 31, 1993.

(b) "Adjusted Kentucky basis" means the amount computed in accordance with the provisions of paragraph (b) of subsection (10) of this section for transition property.

(c) "Adjusted federal basis" means the original cost, or, in the case of Section 338 property, the adjusted grossed-up basis of transition property less:

1. Any basis adjustments required by the Internal Revenue Code for credits; and

2. The total accumulated depreciation and election to expense deductions allowed or allowable for federal income tax purposes.

(d) "Section 338 property" means property to which an adjusted grossed-up basis has been allocated pursuant to a valid election made by a purchasing corporation under the provisions of Section 338 of the Internal Revenue Code.

(e) "Transition amount" means the net difference between the adjusted Kentucky basis and the adjusted federal basis of all transition property determined as of the first day of the first taxable year beginning after December 31, 1993.

(13) For taxable years beginning after December 31, 1993, the amounts of depreciation and election to expense deductions, allowed or allowable, the basis of assets, adjusted or unadjusted, and the gain or loss from the sale or other disposition of assets shall be the same for Kentucky income tax purposes as determined under Chapter 1 of the Internal Revenue Code.

(14) For taxable years beginning after December 31, 1993, the transition amount computed in accordance with the provisions of paragraph (e) of subsection (12) of this section shall be reported by the taxpayer as follows:

(a) In the first taxable year beginning after December 31, 1993, and the eleven (11) succeeding taxable years, the taxpayer shall include in gross income one-twelfth (1/12) of the transition amount if:

1. The adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property;

2. The transition amount exceeds five million dollars ($5,000,000);

3. The transition amount includes property for which an election was made under Section 338 of the Internal Revenue Code; and

4. The taxpayer elects the provisions of this paragraph with the filing of an amended income tax return for the first taxable year beginning after December 31, 1993.

(b) In the first taxable year beginning after December 31, 1993 and the three (3) succeeding taxable years, if the transition amount exceeds one hundred thousand dollars ($100,000), or if the transition amount does not exceed one hundred thousand dollars ($100,000) and the taxpayer elects the provision of this paragraph with the filing of the income tax return for the first taxable year beginning after December 31, 1993, the taxpayer shall:

1. Deduct from gross income twenty-five percent (25%) of the transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or

2. Add to gross income twenty-five percent (25%) of the transition amount if the adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property.

(c) In the first taxable year beginning after December 31, 1993, if the transition amount does not exceed one hundred thousand dollars ($100,000) and the taxpayer does not elect the provisions of paragraph (b) of this subsection, the taxpayer shall:

1. Deduct from gross income the total transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or

2. Add to gross income the total transition amount if the adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property.

(15) Notwithstanding any other provision of this section to the contrary, any qualified farming operation, as defined in KRS 141.410, shall be allowed to compute the depreciation deduction for new buildings and equipment purchased to enable participation in a networking project, as defined in KRS 141.410, on an accelerated basis at two (2) times the rate that would otherwise be permitted under the provisions of this section. The accumulated depreciation allowed under this subsection shall not exceed the taxpayer's basis in such property.

(16) ***(a)*** For property placed in service after September 10, 2001, only the depreciation ***deduction***~~[and expense deductions]~~ allowed under ***Section***~~[Sections]~~ 168~~[and 179]~~ of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed.

(b) For property placed in service after September 10, 2001, but prior to January 1, 2020, only the expense deduction allowed under Section 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed.

(c) For property placed in service on or after January 1, 2020, only the expense deduction allowed under Section 179 of the Internal Revenue Code in effect on December 31, 2003, exclusive of any amendments made subsequent to that date, shall be allowed.

➔Section 37. KRS 141.019 is amended to read as follows:

For taxable years beginning on or after January 1, 2018, in the case of taxpayers other than corporations:

(1) Adjusted gross income shall be calculated by subtracting from the gross income of those taxpayers the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusting as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Pub. L. No. 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue

Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(g) 1. a. For taxable years beginning after December 31, 2005, but before January 1, 2018, exclude up to forty-one thousand one hundred ten dollars ($41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans; and

b. For taxable years beginning on or after January 1, 2018, exclude up to thirty-one thousand one hundred ten dollars ($31,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. As used in this paragraph:

a. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code;

b. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(h) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in an S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(i) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primaries or regular or special elections;

(j) Exclude any capital gains income attributable to property taken by eminent domain;

(k) 1. Exclude all income from all sources for~~[active duty and reserve]~~ members~~[and officers]~~ of the Armed Forces ***who are on active duty and***~~[of the United States or National Guard]~~ who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred.

2. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;

(l) Exclude all military pay received by~~[active duty]~~ members of the Armed Forces ***while on active duty***~~[of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205]~~;

(m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167 or 168; and

2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and

(n) Include the amount deducted under 26 U.S.C. sec. 199A; and

(2) Net income shall be calculated by subtracting from adjusted gross income all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:

(a)~~[Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;~~

~~(b)]~~ Any deduction allowed by 26 U.S.C. sec. 164 for taxes;

(b)~~[(c)]~~ Any deduction allowed by 26 U.S.C. sec. 165 for losses***, except wagering losses allowed under Section 165(d) of the Internal Revenue Code***;

(c)~~[(d)]~~ Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;

(d)~~[(e)]~~ Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;

(e)~~[(f)]~~ Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;

(f)~~[(g)]~~ Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);

(g)~~[(h)]~~ Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;

(h)~~[(i)]~~ Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and

(i)~~[(j)]~~ A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section.

➔Section 38. KRS 141.021 is amended to read as follows:

Notwithstanding the provisions of KRS 141.010, federal retirement annuities, and local government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or 96.180, shall be excluded from gross income. Except federal retirement annuities and local government retirement annuities accrued or accruing on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS ***141.019***~~[141.010]~~ and 141.0215.

➔Section 39. KRS 141.0215 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 141.010***(12)***~~[(9)]~~, for tax years commencing on or after January 1, 1998, the amount of all previously untaxed distributions from a retirement plan paid pursuant to KRS Chapters 6, 16, 21, 61, 67A, 78, 90, 95, 96, 161, and 164, and the amount of all previously untaxed distributions paid from a retirement plan by the federal government, which are excluded from gross income pursuant to KRS 141.021, shall be included in gross income as follows:

(a) Multiply the total annual government retirement payments by a fraction whose numerator is the number of full or partial years of service performed for the governmental unit making the retirement payments after January 1, 1998, and whose denominator is the total number of full or partial years of service performed for the governmental unit making retirement payments, including purchased service credit. Purchased service credits shall be included in the numerator of the fraction only if the services for which credits are being purchased were provided after January 1, 1998.

(b) The resulting number shall be the amount included in gross income.

(2) Any taxpayer receiving government retirement payments from more than one (1) governmental unit shall separately determine the payment amount attributable to each unit to be included in gross income, using the formula set forth in subsection (1) of this section.

➔Section 40. KRS 141.040 is amended to read as follows:

(1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) ***and (b)***~~[to (h)]~~ of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in this section:

(a) ***For taxable years beginning prior to January 1, 2021:***

1. Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;

2.~~[(b)]~~ Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

3.~~[(c)]~~ Banks for cooperatives;

4.~~[(d)]~~ Production credit associations;

5.~~[(e)]~~ Insurance companies, including ***farmers'***~~[farmers]~~ or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

6.~~[(f)]~~ Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

7.~~[(g)]~~ Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and

8.~~[(h)]~~ Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a.~~[1.]~~ The property consists of the final printed product, or copy from which the printed product is produced; and

b.~~[2.]~~ The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b)***; and***

(b) For taxable years beginning on or after January 1, 2021:

1. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

2. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

3. Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and

4. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a. The property consists of the final printed product, or copy from which the printed product is produced; and

b. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b).

(2) For taxable years beginning on or after January 1, 2018, the rate of five percent (5%) of taxable net income shall apply.

(3) For taxable years beginning on or after January 1, 2007, and before January 1, 2018, the following rates shall apply:

(a) Four percent (4%) of the first fifty thousand dollars ($50,000) of taxable net income;

(b) Five percent (5%) of taxable net income over fifty thousand dollars ($50,000) up to one hundred thousand dollars ($100,000); and

(c) Six percent (6%) of taxable net income over one hundred thousand dollars ($100,000).

(4) (a) An S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.

(b) 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.

2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.

(c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.

(5) For the taxable years beginning on or after January 1, 2021, but prior to January 1, 2022, there shall be allowed a refundable credit against the tax imposed by this section and Section 41 of this Act, with the ordering of the credits as provided in Section 79 of this Act, for any financial institution that timely pays the bank franchise tax imposed under Section 16 of this Act.

➔Section 41. KRS 141.0401 is amended to read as follows:

(1) As used in this section:

(a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(c) "Combined group" means all members of an affiliated group as defined in KRS 141.200(9)(b) and all limited liability pass-through entities that would be included in an affiliated group if organized as a corporation;

(d) "Cost of goods sold" means:

1. Amounts that are:

a. Allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service relating to cost of goods sold, unless modified by this paragraph; and

b. Incurred in acquiring or producing the tangible product generating the Kentucky gross receipts.

2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:

a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;

b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and

c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;

3. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs shall be included in cost of goods sold.

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

(e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then "Kentucky gross profits" means Kentucky gross receipts; and

2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources means gross receipts from all sources;

(f) "Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;

(g) "Bulk delivery costs" means the cost of delivering the product to the consumer if:

1. The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and

2. The tangible product is taxable under KRS 138.220;

(h) "Manufacturing" and "producing" means:

1. Manufacturing, producing, constructing, or assembling components to produce a significantly different or enhanced end tangible product;

2. Mining or severing natural resources from the earth; or

3. Growing or raising agricultural or horticultural products or animals;

(i) "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land;

(j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible product;

(k) "Tangible personal property" means property, other than real property, that has physical form and characteristics; and

(l) "Tangible product" means real property and tangible personal property;

(2) (a) For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits except as provided in this subsection. A small business exclusion from this tax shall be provided based on the reduction contained in this subsection. The tax shall be the greater of the amount computed under paragraph (b) of this subsection or one hundred seventy-five dollars ($175), regardless of the application of any tax credits provided under this chapter or any other provisions of the Kentucky Revised Statutes for which the business entity may qualify.

(b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:

1. a. If the corporation's or limited liability pass-through entity's gross receipts from all sources are three million dollars ($3,000,000) or less, the limited liability entity tax shall be ***one hundred seventy-five dollars ($175)***~~[zero]~~;

b. If the corporation's or limited liability pass-through entity's gross receipts from all sources are greater than three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the limited liability entity tax shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts reduced by an amount equal to two thousand eight hundred fifty dollars ($2,850) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross receipts for the taxable year, and the denominator of which is three

million dollars ($3,000,000), but in no case shall the result be less than ***one hundred seventy-five dollars ($175)***~~[zero]~~;

c. If the corporation's or limited liability pass-through entity's gross receipts from all sources are equal to or greater than six million dollars ($6,000,000), the limited liability entity tax shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts.

2. a. If the corporation's or limited liability pass-through entity's gross profits from all sources are three million dollars ($3,000,000) or less, the limited liability entity tax shall be ***one hundred seventy-five dollars ($175)***~~[zero]~~;

b. If the corporation's or limited liability pass-through entity's gross profits from all sources are at least three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of the corporation's or limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars ($22,500) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars ($3,000,000), but in no case shall the result be less than ***one hundred seventy-five dollars ($175)***~~[zero]~~;

c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of all of the corporation's or limited liability pass-through entity's Kentucky gross profits.

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

(c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability pass-through entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars ($175) at each layer.

(d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.

(3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:

(a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars ($175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.

(b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.

(4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required ***under Section 42 of this Act***~~[in KRS 141.042]~~ shall be paid by the original due date of the return.

(5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.

(6) The tax imposed by subsection (2) of this section shall not apply to:

(a) ***For taxable years beginning prior to January 1, 2021:***

1. Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;

2.~~[(b)]~~ Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

3.~~[(c)]~~ Banks for cooperatives;

4.~~[(d)]~~ Production credit associations;

5.~~[(e)]~~ Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

6.~~[(f)]~~ Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

7.~~[(g)]~~ Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

8.~~[(h)]~~ Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a.~~[1.]~~ The property consists of the final printed product, or copy from which the printed product is produced; and

b.~~[2.]~~ The corporation has no individuals receiving compensation in this state as provided in KRS 141.901;

9.~~[(i)]~~ Public service corporations subject to tax under KRS 136.120;

10.~~[(j)]~~ Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

11.~~[(k)]~~ Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

12.~~[(l)]~~ An alcohol production facility as defined in KRS 247.910;

13.~~[(m)]~~ Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;

14.~~[(n)]~~ Regulated investment companies as defined in Section 851 of the Internal Revenue Code;

15.~~[(o)]~~ Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

16.~~[(p)]~~ Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;

17.~~[(q)]~~ Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or

18.~~[(r)]~~ Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least

eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership***; and***

(b) For taxable years beginning on or after January 1, 2022:

1. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

2. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

3. Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

4. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a. The property consists of the final printed product, or copy from which the printed product is produced; and

b. The corporation has no individuals receiving compensation in this state as provided in KRS 141.901;

5. Public service corporations subject to tax under KRS 136.120;

6. Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

7. Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

8. An alcohol production facility as defined in KRS 247.910;

9. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;

10. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;

11. Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

12. Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;

13. Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or

14. Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.

(7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) ***and (b)***~~[to (r)]~~ of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.

(b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.

(c) Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.

(d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

(8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

➔Section 42. KRS 141.044 is amended to read as follows:

(1) ***For taxable years beginning on or after January 1, 2019, every corporation and limited liability pass-through entity subject to taxation under Sections 40 and 41 of this Act shall make estimated tax payments if the taxes imposed by Sections 40 and 41 of this Act for the taxable year can reasonably be expected to exceed five thousand dollars ($5,000).***

(2) Estimated tax payments for the taxes imposed under Sections 40 and 41 of this Act shall be made at the same time and calculated in the same manner as estimated tax payments for federal income tax purposes under 26 U.S.C. sec. 6655, except:

(a) The estimated liabilities for the taxes imposed under Sections 40 and 41 of this Act shall be used to make the estimated payments;

(b) Any provisions in 26 U.S.C. sec. 6655 that apply for federal tax purposes but do not apply to the taxes imposed under Sections 40 and 41 of this Act;

(c) The addition to tax identified by 26 U.S.C. sec. 6655(a) shall instead be considered a penalty under Section 4 of this Act;

(d) The tax interest rate identified under KRS 131.183 shall be used to determine the underpayment rate instead of the rate under 26 U.S.C. sec. 6621; and

(e) Any waiver of penalties shall be performed as provided in KRS 131.175.

(3) The department may promulgate administrative regulations to implement this section.~~[The estimated tax provided for in KRS 141.042 shall be paid as follows:~~

~~(a) If the declaration is filed on or before June 15 of the taxable year, the estimated tax shall be paid in three (3) installments. The first installment, in an amount equal to fifty percent (50%) of the estimated tax, shall be paid at the time of the filing of the declaration. The second and third installments, each in an amount equal to twenty five percent (25%) of the estimated tax, shall be paid on September 15 and December 15, respectively, of the taxable year;~~

~~(b) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by KRS 141.042 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) installments. The first installment, in an amount equal to seventy five percent (75%) of the estimated tax, shall be paid at the time of the filing of the declaration and the second installment, in an amount equal to twenty five percent (25%) of the estimated tax, on December 15 of the taxable year;~~

~~(c) If the declaration is filed after September 15 of the taxable year and is not required to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration;~~

~~(d) If the declaration is filed after the time prescribed in KRS 141.042, including cases where extensions of time have been granted, paragraphs (a), (b), and (c) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in KRS 141.042, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.~~

~~(2) (a) A refund of taxes collected pursuant to KRS 141.042 shall include interest at the tax interest rate as defined in KRS 131.010(6).~~

~~(b) Effective for refunds issued after April 24, 2008, the interest shall not begin to accrue until ninety (90) days after the latest of:~~

~~1. The due date of the return;~~

~~2. The date the return was filed;~~

~~3. The date the tax was paid;~~

~~4. The last day prescribed by law for filing the return, or~~

~~5. The date an amended return claiming a refund is filed.~~

~~(3) (a) Overpayment as defined in KRS 134.580 resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;~~

~~(b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this chapter.~~

~~(4) At the election of the taxpayer, any installment of the estimated tax may be paid prior to the date prescribed for its payment.~~

~~(5) In the application of this section and KRS 141.042 for a taxable year beginning on any date other than January 1, there shall be substituted for the months specified in this section and KRS 141.042 the relative months and dates which correspond to that taxable year.]~~

➔Section 43. KRS 141.066 is amended to read as follows:

(1) As used in this section:

(a) "Federal poverty level" means the Health and Human Services poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2) and available on June 30 of the taxable year;

(b) "Qualifying dependent" means a qualifying child as defined in the Internal Revenue Code, Section 152(c), and includes a child who lives in the household but cannot be claimed as a dependent if the provisions of Internal Revenue Code Section 152(e)(2) and 152(e)(4) apply;

(c) "Qualifying individual" means an individual whose filing status is single or married filing separately if during the taxable year the individual's spouse is not a member of the household;

(d) "Qualifying married couple" means a husband and wife living together who file a joint return or separately on a combined return. "Marital status" shall have the same meaning as defined in Section 7703 of the Internal Revenue Code; and

(e) "Threshold amount" means:

1. For a qualifying individual with no qualifying dependent children, the federal poverty level established for a family unit size of one (1):

2. For a qualifying individual with one (1) qualifying dependent child or a qualifying married couple with no qualifying dependent children, the federal poverty level established for a family unit size of two (2);

3. For a qualifying individual with two (2) qualifying dependent children or a qualifying married couple with one (1) qualifying dependent child, the federal poverty level established for a family unit size of three (3);

4. For a qualifying individual with (3) or more qualifying dependent children or a qualifying married couple with two (2) or more qualifying dependent children, the federal poverty level established for a family unit size of four (4).

(2) (a) For taxable years beginning before January 1, 2005, a resident individual whose adjusted gross income does not exceed the amounts set out in paragraph (c) of this subsection shall be eligible for a nonrefundable "low income" tax credit. The credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020, and shall be taken in the order established by KRS 141.0205.

(b) For a husband and wife filing jointly, the "low income" tax credit shall be computed on the basis of their joint adjusted gross income and shall be applied against their joint tax liability. For a husband and wife living together, whether filing separate returns or filing separately on a combined return, the "low income" credit shall be computed on the basis of their combined adjusted gross income, except that a separately computed gross income of less than zero shall be treated as zero, and shall be applied against their combined tax liability.

(c) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

(3) (a) For taxable years beginning after December 31, 2004, qualifying taxpayers whose modified gross income is below one hundred thirty-three percent (133%) of the threshold amount shall be entitled to a nonrefundable family size tax credit. The family size tax credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020. The family size tax credit shall not reduce the taxpayer's tax liability below zero.

(b) For qualifying taxpayers whose modified gross income is equal to or below one hundred percent (100%) of the threshold amount, the family size tax credit shall be equal to the taxpayer's tax liability.

(c) For qualifying taxpayers whose modified gross income exceeds the threshold amount but is below one hundred thirty-three percent (133%) of the threshold amount, the family size tax credit shall be equal to the amount of the taxpayer's individual income tax liability multiplied by a percentage as follows:

1. If modified gross income is above one hundred percent (100%) but less than or equal to one hundred four percent (104%) of the threshold amount, the credit percentage shall be ninety percent (90%);

2. If modified gross income is above one hundred four percent (104%) but less than or equal to one hundred eight percent (108%) of the threshold amount, the credit percentage shall be eighty percent (80%);

3. If modified gross income is above one hundred eight percent (108%) but less than or equal to one hundred twelve percent (112%) of the threshold amount, the credit percentage shall be seventy percent (70%);

4. If modified gross income is above one hundred twelve percent (112%) but less than or equal to one hundred sixteen percent (116%) of the threshold amount, the credit percentage shall be sixty percent (60%);

5. If modified gross income is above one hundred sixteen percent (116%) but less than or equal to one hundred twenty percent (120%) of the threshold amount, the credit percentage shall be fifty percent (50%);

6. If modified gross income is above one hundred twenty percent (120%) but less than or equal to one hundred twenty-four percent (124%) of the threshold amount, the credit percentage shall be forty percent (40%);

7. If modified gross income is above one hundred twenty-four percent (124%) but less than or equal to one hundred twenty-seven percent (127%) of the threshold amount, the credit percentage shall be thirty percent (30%);

8. If modified gross income is above one hundred twenty-seven percent (127%) but less than or equal to one hundred thirty percent (130%) of the threshold amount, the credit percentage shall be twenty percent (20%);

9. If modified gross income is above one hundred thirty percent (130%) but less than or equal to one hundred thirty-three percent (133%) of the threshold amount, the credit percentage shall be ten percent (10%);

10. If modified gross income is above one hundred thirty-three percent (133%) of the threshold amount, the credit percentage shall be zero.

(d) For taxable years beginning on or after January 1, 2019, but before January 1, 2021, in addition to the credit calculated under paragraphs (a), (b), and (c) of this subsection, the income gap credit shall be allowed:

1. If modified gross income is above one hundred percent (100%) but less than or equal to one hundred four percent (104%) of the threshold amount, the credit shall be in an amount equal to:

a. Eleven dollars ($11) for a family size of one (1);

b. Seven dollars ($7) for a family size of two (2); and

c. Three dollars ($3) for a family size of three (3);

2. If modified gross income is above one hundred four percent (104%) but less than or equal to one hundred eight percent (108%) of the threshold amount, the credit shall be in an amount equal to:

a. Twenty dollars ($20) for a family size of one (1);

b. Thirteen dollars ($13) for a family size of two (2); and

c. Six dollars ($6) for a family size of three (3);

3. If modified gross income is above one hundred eight percent (108%) but less than or equal to one hundred twelve percent (112%) of the threshold amount, the credit shall be in an amount equal to:

a. Twenty-nine dollars ($29) for a family size of one (1);

b. Eighteen dollars ($18) for a family size of two (2); and

c. Six dollars ($6) for a family size of three (3);

4. If modified gross income is above one hundred twelve percent (112%) but less than or equal to one hundred sixteen percent (116%) of the threshold amount, the credit shall be in an amount equal to:

a. Thirty-seven dollars ($37) for a family size of one (1);

b. Twenty-two dollars ($22) for a family size of two (2); and

c. Six dollars ($6) for a family size of three (3);

5. If modified gross income is above one hundred sixteen percent (116%) but less than or equal to one hundred twenty percent (120%) of the threshold amount, the credit shall be in an amount equal to:

a. Forty-five dollars ($45) for a family size of one (1);

b. Twenty-four dollars ($24) for a family size of two (2); and

c. Four dollars ($4) for a family size of three (3);

6. If modified gross income is above one hundred twenty percent (120%) but less than or equal to one hundred twenty-four percent (124%) of the threshold amount, the credit shall be in an amount equal to:

a. Fifty-one dollars ($51) for a family size of one (1); and

b. Twenty-six dollars ($26) for a family size of two (2);

7. If modified gross income is above one hundred twenty-four percent (124%) but less than or equal to one hundred twenty-seven percent (127%) of the threshold amount, the credit shall be in an amount equal to:

a. Fifty-eight dollars ($58) for a family size of one (1); and

b. Twenty-seven dollars ($27) for a family size of two (2);

8. If modified gross income is above one hundred twenty-seven percent (127%) but less than or equal to one hundred thirty percent (130%) of the threshold amount, the credit shall be in an amount equal to:

a. Sixty-four dollars ($64) for a family size of one (1); and

b. Twenty-eight dollars ($28) for a family size of two (2); and

9. If modified gross income is above one hundred thirty percent (130%) but less than or equal to one hundred thirty-three percent (133%) of the threshold amount, the credit shall be in an amount equal to:

a. Sixty-nine dollars ($69) for a family size of one (1); and

b. Twenty-eight dollars ($28) for a family size of two (2).

(4) For a qualifying married couple filing jointly, the family size tax credit shall be computed on the basis of their joint modified gross income and shall be applied against their joint tax liability. For a qualifying married couple living together, whether filing separate returns or filing separately on a combined return, the family size tax credit shall be computed on the basis of their combined modified gross income, except that a separately computed modified gross income of less than zero shall be treated as zero, and shall be applied against their combined tax liability.

➔Section 44. KRS 141.121 is amended to read as follows:

(1) As used in this section:

(a) "Affiliated airline" means an airline:

1. For which a qualified air freight forwarder facilitates air transportation; and

2. That is in the same affiliated group as a qualified air freight forwarder;

(b) "Affiliated group" has the same meaning as in KRS 141.200;

(c) "Kentucky revenue passenger miles" means the total revenue passenger miles within the borders of Kentucky for all flight stages that either originate or terminate in this state;

(d) "Passenger airline" means a person or corporation engaged primarily in the carriage by aircraft of passengers in interstate commerce;

(e) "Provider" means any corporation engaged in the business of providing:

1. Communications service as defined in KRS 136.602;

2. Cable service as defined in KRS 136.602; or

3. Internet access as defined in 47 U.S.C. sec. 151;

(f) "Qualified air freight forwarder" means a person that:

1. Is engaged primarily in the facilitation of the transportation of property by air;

2. Does not itself operate aircraft; and

3. Is in the same affiliated group as an affiliated airline; and

(g) "Revenue passenger miles" means miles calculated in accordance with 14 C.F.R. Part 241.

(2) (a) For purposes of apportioning business income to this state for taxable years beginning prior to January 1, 2018:

1. Passenger airlines shall determine the property, payroll, and sales factors as follows:

a. Except as modified by this subdivision, the property factor shall be determined as provided in KRS 141.901. Aircraft operated by a passenger airline shall be included in both the numerator and denominator of the property factor. Aircraft shall be included in the numerator of the property factor by determining the product of:

i. The total average value of the aircraft operated by the passenger airline; and

ii. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total

revenue passenger miles of the passenger airline for the taxable year;

b. Except as modified by this subdivision, the payroll factor shall be determined as provided in KRS 141.901. Compensation paid during the tax period by a passenger airline to flight personnel shall be included in the numerator of the payroll factor by determining the product of:

i The total amount paid during the taxable year to flight personnel; and

ii. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year; and

c. Except as modified by this subdivision, the sales factor shall be determined as provided in KRS 141.901. Transportation revenues shall be included in the numerator of the sales factor by determining the product of:

i The total transportation revenues of the passenger airline for the taxable year; and

ii. A fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and

2. Qualified air freight forwarders shall determine the property, payroll, and sales factors as follows:

a. The property factor shall be determined as provided in KRS 141.901;

b. The payroll factor shall be determined as provided in KRS 141.901; and

c. Except as modified by this subparagraph, the sales factor shall be determined as provided in KRS 141.901. Freight forwarding revenues shall be included in the numerator of the sales factor by determining the product of:

i. The total freight forwarding revenues of the qualified air freight forwarder for the taxable year; and

ii. A fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.

(b) For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, except as modified by this paragraph, the apportionment fraction shall be determined as provided in KRS 141.120, except that:

1. Transportation revenues shall be determined to be in this state by multiplying the total transportation revenues by a fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and

2. Freight forwarding revenues shall be determined to be in this state by multiplying the total freight forwarding revenues by a fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.

(3) For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, the apportionment fraction for a provider shall continue to be calculated using a three (3) factor formula as provided in KRS 141.901.

(4) (a) A corporation may elect the allocation and apportionment methods for the corporation's apportionable income provided for in paragraphs (b) and (c) of this subsection. The election, if made, shall be irrevocable for a period of five (5) years.

(b) All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

1. Total apportionable income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period;

2. For purposes of subparagraph 1. of this paragraph, Kentucky receipts shall be determined by multiplying total receipts for the taxable year from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year; and

3. Nonapportionable income shall be allocated to this state as provided in KRS 141.120.

(c) All apportionable income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2) before that statute was renumbered in 1992, shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

1. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year;

2. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year; and

3. Nonapportionable income shall be allocated to this state as provided in KRS 141.120.

(5) Public service companies and financial organizations required by KRS 141.010 to allocate and apportion net income shall allocate and apportion that income as follows:

(a) Nonapportionable income shall be allocated to this state as provided in KRS 141.120;

(b) Apportionable income shall be apportioned to this state as provided by KRS 141.120. Receipts shall be determined as provided by administrative regulations promulgated by the department; and

(c) An affiliated group required to file a consolidated return under KRS 141.200 that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or a financial organization shall determine the amount of receipts as provided by administrative regulations promulgated by the department.

(6) A corporation:

(a) That owns an interest in a limited liability pass-through entity; or

(b) That owns an interest in a general partnership;

shall include the proportionate share of receipts of the limited liability pass-through entity or general partnership when apportioning income. The phrases "an interest in a limited liability pass-through entity" and "an interest in a general partnership" shall extend to each level of multiple-tiered pass-through entities.

(7) The department shall promulgate administrative regulations to detail the sourcing of the following receipts related to financial institutions:

(a) Receipts from the lease of real property;

(b) Receipts from the lease of tangible personal property;

(c) Interest, fees, and penalties imposed in connection with loans secured by real property;

(d) Interest, fees, and penalties imposed in connection with loans not secured by real property;

(e) Net gains from the sale of loans;

(f) Receipts from fees, interest, and penalties charged to card holders;

(g) Net gains from the sale of credit card receivables;

(h) Card issuer's reimbursement fees;

(i) Receipts from merchant discount;

(j) Receipts from ATM fees;

(k) Receipts from loan servicing fees;

(l) Receipts from other services;

(m) Receipts from the financial institution's investment assets and activity and trading assets and activity; and

(n) All other receipts.

➔Section 45. KRS 141.170 is amended to read as follows:

(1) The department~~[of Revenue]~~ may grant any taxpayer other than a corporation a reasonable extension of time for filing an income tax return whenever good cause exists, and shall keep a record of every extension. Except in the case of an individual who is abroad, no extension shall be granted for more than six (6) months. In the case of an individual who is abroad, the extension shall not be granted for more than one (1) year.

(2) A corporation may be granted an extension of not more than ***seven (7)***~~[six (6)]~~ months for filing its income tax return, provided the corporation, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed with the department.

➔Section 46. KRS 141.175 is amended to read as follows:

(1) ***As used in this section, Section 37 of this Act, and KRS 141.900:***

(a) "Active duty" means the day the person assembles at his or her armory or other designated place until the day he or she returns there and has been properly relieved, including:

1. Fractional parts of a day which count as a full day; and

2. All days of active duty for training and inactive duty training; and

(b) "Armed Forces" means the military forces of the United States and the Commonwealth, including the:

1. Army;

2. Navy;

3. Air Force;

4. Marine Corps;

5. Coast Guard;

6. Any Reserve branch of the Army, Navy, Air Force, Marine Corps, or Coast Guard; and

7. National Guard.

(2) (a) Members of the ***Armed Forces***~~[National Guard or any branch of the reserves]~~ called to active duty who are required by law to file an income tax return and pay income taxes to the state of Kentucky shall be allowed an extension to file the return and pay the taxes, which would otherwise become due during the period of service, if the member serves in an area designated as a combat zone by presidential proclamation.

(b)~~[(2)]~~ The extension referred to in ***paragraph (a) of this*** subsection~~[(1) of this section]~~ shall expire twelve (12) months after the service.

(c)~~[(3)]~~ No penalty shall accrue by reason of the extension.

➔Section 47. KRS 141.201 is amended to read as follows:

(1) This section shall apply to taxable years beginning on or after January 1, 2019.

(2) As used in this section:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;

(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;

(c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with this chapter;

(d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(e) "Election period" means the ***forty-eight (48)***~~[ninety-six (96)]~~ month period provided for in subsection (4)(d) of this section.

(3) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year:

(a) 1. File a combined report, if the corporation is a member of unitary business group as provided in KRS 141.202; or

2. Make an election to file a consolidated return with all members of the affiliated group as provided in this section; or

(b) File a separate return, if paragraph (a) of this subsection does not apply.

(4) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.

(b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income as provided in KRS 141.039(2), and determining the apportionment fraction in accordance with KRS 141.120.

(c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return, including extensions, for the first taxable year for which the election is made.

(d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ***forty-eighth***~~[ninety-sixth]~~ consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election provided in paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

(5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

(6) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The department may require a further or supplemental report of further information and data necessary for computation of the tax.

(7) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

➔Section 48. KRS 141.202 is amended to read as follows:

(1) This section shall apply to taxable years beginning on or after January 1, 2019.

(2) As used in this section:

(a) "Combined group" means the group of all corporations whose income and apportionment factors are required to be taken into account as provided in subsection (3) of this section in determining the taxpayer's share of the net income or loss apportionable to this state***. A combined group shall include only corporations, the voting stock of which is more than fifty percent (50%) owned, directly or indirectly, by a common owner or owners***;

(b) "Corporation" has the same meaning as in KRS 141.010, including an organization of any kind treated as a corporation for tax purposes under KRS 141.040, wherever located, which if it were doing business in this state would be a taxpayer, and the business conducted by a pass-through entity which is directly or indirectly held by a corporation shall be considered the business of the corporation to the extent of the corporation's distributive share of the pass-through entity income, inclusive of guaranteed payments;

(c) "Doing business in a tax haven" means being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards;

(d) ***1.*** "Tax haven" means a jurisdiction that, during the taxable year has no or nominal effective tax on the relevant income and:

a.~~[1.]~~ Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefitting from the tax regime;

b.~~[2.]~~ Has a tax regime which lacks transparency. A tax regime lacks transparency if the details of legislative, legal, or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;

c.~~[3.]~~ Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

d.~~[4.]~~ Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

e.~~[5.]~~ Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy**.**

2. "Tax haven" does not include a jurisdiction that has entered into a comprehensive income tax treaty with the United States, which the Secretary of the Treasury has determined is satisfactory for purposes of Section 1(h)(11)(C)(i)(II) of the Internal Revenue Code;

(e) "Taxpayer" means any corporation subject to the tax imposed under this chapter;

(f) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single corporation or of a commonly controlled group of corporations that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. For purposes of this section, the term "unitary business" shall be broadly construed, to the extent permitted by the United States Constitution; and

(g) "United States" means the fifty (50) states of the United States, the District of Columbia, and United States' territories and possessions.

(3) (a) Except as provided in KRS 141.201, a taxpayer engaged in a unitary business with one (1) or more other corporations shall file a combined report which includes the income, determined under subsection (5) of this section, and the apportionment fraction, determined under KRS 141.120 and paragraph (d) of this subsection, of all corporations that are members of the unitary business, and any other information as required by the department. ***The combined report shall be filed on a waters-edge basis under subsection (8) of this section.***

(b) The department may, by administrative regulation, require that the combined report include the income and associated apportionment factors of any corporations that are not included as provided by paragraph (a) of this subsection, but that are members of a unitary business, in order to reflect proper apportionment of income of the entire unitary businesses. Authority to require combination by administrative regulation under this paragraph includes authority to require combination of corporations that are not, or would not be combined, if the corporation were doing business in this state.

(c) In addition, if the department determines that the reported income or loss of a taxpayer engaged in a unitary business with any corporation not included as provided by paragraph (a) of this subsection represents an avoidance or evasion of tax by the taxpayer, the department may, on a case-by-case basis, require all or any part of the income and associated apportionment factors of the corporation be included in the taxpayer's combined report.

(d) With respect to the inclusion of associated apportionment factors as provided in paragraph (a) of this subsection, the department may require the inclusion of any one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.

(e) ***A unitary business shall consider the combined gross receipts and combined income from all sources of all members under subsection (8) of this section, including eliminating entries for transactions among the members under subsection (8)(e) of this section.***

(f) Notwithstanding paragraphs (a) to ***(e)***~~[(d)]~~ of this subsection, a consolidated return may be filed as provided in KRS 141.201 if the taxpayer makes an election according to KRS 141.201.

(4) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include, in addition to the other types of income, the taxpayer member's share of apportionable income of the combined group, where apportionable income of the combined group is calculated as a summation of the individual net incomes of all members of the combined group. A member's net income is determined by removing all but apportionable income, expense, and loss from that member's total income as provided in subsection (5) of this section.

(5) (a) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include:

1. Its share of any income apportionable to this state of each of the combined groups of which it is a member, determined under subsection (6) of this section;

2. Its share of any income apportionable to this state of a distinct business activity conducted within and without the state wholly by the taxpayer member, determined under KRS 141.120;

3. Its income from a business conducted wholly by the taxpayer member entirely within the state;

4. Its income sourced to this state from the sale or exchange of capital or assets, and from involuntary conversions, as determined under subsection (8)(k) of this section;

5. Its nonapportionable income or loss allocable to this state, determined under KRS 141.120;

6. Its income or loss allocated or apportioned in an earlier year, required to be taken into account as state source income during the income year, other than a net operating loss; and

7. Its net operating loss carryover. If the taxable income computed pursuant to this subsection results in a loss for a taxpayer member of the combined group, that taxpayer member has a Kentucky net operating loss, subject to the net operating loss limitations and carry forward

provisions of KRS 141.011. The net operating loss is applied as a deduction in a subsequent year only if that taxpayer has Kentucky source positive net income, whether or not the taxpayer is or was a member of a combined reporting group in the subsequent year.

(b) No tax credit or post-apportionment deduction earned by one (1) member of the group, but not fully used by or allowed to that member, may be used in whole or in part by another member of the group or applied in whole or in part against the total income of the combined group.

(c) A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year, regardless of the composition of that income as apportioned, allocated, or wholly within this state.

(6) The taxpayer's share of the business income apportionable to this state of each combined group of which it is a member shall be the product of:

(a) The apportionable income of the combined group, determined under subsection (7) of this section; and

(b) The taxpayer member's apportionment fraction, determined under KRS 141.120, including in the sales factor numerator the taxpayer's sales associated with the combined group's unitary business in this state, and including in the denominator the sales of all members of the combined group, including the taxpayer, which sales are associated with the combined group's unitary business wherever located. The sales of a pass-through entity shall be included in the determination of the partner's apportionment percentage in proportion to a ratio, the numerator of which is the amount of the partner's distributive share of the pass-through entity's unitary income included in the income of the combined group as provided in subsection (8) of this section and the denominator of which is the amount of pass-through entity's total unitary income.

(7) The apportionable income of a combined group is determined as follows:

(a) The total income of the combined group is the sum of the income of each member of the combined group determined under federal income tax laws, as adjusted for state purposes, as if the member were not consolidated for federal purposes; and

(b) From the total income of the combined group determined under subsection (8) of this section, subtract any income and add any expense or loss, other than the apportionable income, expense, or loss of the combined group.

(8) To determine the total income of the combined group, taxpayer members shall take into account all or a portion of the income and apportionment factor of only the following members otherwise included in the combined group as provided in subsection (3) of this section:

(a) The entire income and apportionment percentage of any member incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States ***that earns less than eighty percent (80%) of its income from sources outside of the United States, the District of Columbia, or any territory or possession of the United States***;

(b) Any member that earns more than twenty percent (20%) of its income, directly or indirectly, from intangible property or service related activities that are deductible against the apportionable income of other members of the combined group, to the extent of that income and the apportionment factor related to that income;

(c) The entire income and apportionment factor of any member that is doing business in a tax haven. If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions, and practices that cause the jurisdiction to meet the definition established in subsection (2)(d) of this section, the activity of the member shall be treated as not having been conducted in a tax haven;

(d) If a unitary business includes income from a pass-through entity, the income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the pass-through entity's unitary income;

(e) Income from an intercompany transaction between members of the same combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-13. Upon the occurrence of any of the following events, deferred income resulting from an intercompany transaction between members of a combined group shall be restored to the income of the seller, and shall be apportionable income earned immediately before the event:

1. The object of a deferred intercompany transaction is:

   a. Resold by the buyer to an entity that is not a member of the combined group;

   b. Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or

   c. Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

2. The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary;

(f) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction provided by Section 170 of the Internal Revenue Code, be subtracted first from the apportionable income of the combined group, subject to the income limitations of that section applied to the entire apportionable income of the group, and any remaining amount shall then be treated as a nonapportionable expense allocable to the member that incurred the expense, subject to the income limitations of that section applied to the nonapportionable income of that specific member. Any charitable deduction disallowed under this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and this paragraph shall apply in the subsequent year in determining the allowable deduction in that year;

(g) Gain or loss from the sale or exchange of capital assets, property described by Section 1231(a)(3) of the Internal Revenue Code, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:

1. For each class of gain or loss, including short-term capital, long-term capital, Internal Revenue Code Section 1231, and involuntary conversions, all members' gain and loss for the class shall be combined, without netting between the classes, and each class of net gain or loss separately apportioned to each member using the member's apportionment percentage determined under subsection (6) of this section;

2. Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any apportioned gain and loss from other combined groups, against the taxpayer member's nonapportionable gain and loss for all classes allocated to this state, using the rules of Sections 1231 and 1222 of the Internal Revenue Code, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, Internal Revenue Code Section 1231 property, and involuntary conversions which are nonapportionable items allocated to another state;

3. Any resulting state source income or loss, if the loss is not subject to the limitations of Section 1211 of the Internal Revenue Code, of a taxpayer member produced by the application of subparagraphs 1. and 2. of this paragraph shall then be applied to all other state source income or loss of that member; and

4. Any resulting state source loss of a member that is subject to the limitations of Section 1211 of the Internal Revenue Code shall be carried forward by that member, and shall be treated as state source short-term capital loss incurred by that member for the year for which the carryover applies; and

(h) Any expense of one (1) member of the unitary group which is directly or indirectly attributable to the nonapportionable or exempt income of another member of the unitary group shall be allocated to that other member as corresponding nonapportionable or exempt expense, as appropriate.

(9) (a) As a filing convenience, and without changing the respective liability of the group members, members of a combined reporting group shall annually designate one (1) taxpayer member of the combined group to file a single return in the form and manner prescribed by the department, in lieu of filing their own respective returns.

(b) The taxpayer member designated to file the single return shall consent to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report, and shall agree to act as agent on behalf of those taxpayers for the taxable year for matters relating to the combined report. If for

any reason the surety is unwilling or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members.

➔Section 49. KRS 141.206 is amended to read as follows:

(1) Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.

(2) Pass-through entities shall determine net income in the same manner as in the case of an individual under KRS 141.010 and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required for S corporations by KRS 141.040.

(4) (a) Every pass-through entity required to file a return under subsection (1) of this section, except publicly traded partnerships as ***described***~~[defined]~~ in ***subsection (6)(a)18. of this section***~~[KRS 141.0401(6)(r)]~~, shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each:

1. Nonresident individual partner, member, or shareholder; and

2. Corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity.

(b) Withholding shall be at the maximum rate provided in KRS 141.020 or 141.040.

(5) (a) Effective for taxable years beginning after December 31, ***2018***~~[2011]~~, every pass-through entity required to withhold Kentucky income tax as provided by subsection (4) of this section shall ***pay***~~[make a declaration and payment of]~~ estimated tax for the taxable year if:

1. For a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars ($500); or

2. For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the estimated tax liability can reasonably be expected to exceed five thousand dollars ($5,000).

(b) The~~[declaration and]~~ payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.

(6) (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.

(b) An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner. An exemption so revoked shall be reinstated only with permission of the department. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.

(7) In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.

(8) In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection (1) of this section shall take into account:

(a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or

2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (11) of this section; and

(b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.

(9) A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:

(a) 1. For taxable years beginning on or after January 1, 2007, but prior to January 1, 2018, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and

2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and

(b) Credits from the partnership.

(10) (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection (11) of this section.

(b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:

1. Doing business both within and without this state; and

2. A partner or member in another pass-through entity;

then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.

(c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.

(d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection (11) of this section.

(11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in KRS 141.901, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).

(b) For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in KRS 141.120.

(12) Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to

tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.

(13) An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.

(14) (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.

(b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.

(15) (a) 1. A pass-through entity may file a composite income tax return on behalf of electing nonresident individual partners, members, or shareholders.

2. The pass-through entity shall report and pay on the composite income tax return income tax at the highest marginal rate provided in this chapter on any portion of the partners', members', or shareholders' pro rata or distributive shares of income of the pass-through entity from doing business in this state or deriving income from sources within this state. Payments made pursuant to subsection (5) of this section shall be credited against any tax due.

3. The pass-through entity filing a composite return shall still make estimated tax payments if required to do so by subsection (5) of this section, and shall remain subject to any penalty ***under Sections 42 and 52 of this Act***~~[provided by KRS 131.180 or 141.990]~~ for any~~[declaration]~~ underpayment ***of estimated tax determined under Section 42 or 52 of this Act***~~[or any installment not paid on time]~~.

4. The partners', members', or shareholders' pro rata or distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member, or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains and losses, guaranteed payments, and rents.

(b) A nonresident individual partner, member, or shareholder whose only source of income within this state is distributive share income from one (1) or more pass-through entities may elect to be included in a composite return filed pursuant to this section.

(c) A nonresident individual partner, member, or shareholder that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the partner's behalf by the pass-through entity.

(d) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its electing nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require. A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔Section 50. KRS 141.207 is amended to read as follows:

(1) The~~[declaration and]~~ payment of estimated tax required by KRS 141.206 shall contain the following information:

(a) For a nonresident individual partner, member, or shareholder, the amount of estimated tax calculated under KRS 141.020 ***and Section 52 of this Act*** for the taxable year; and

(b) For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the amount of estimated tax calculated under KRS 141.040 ***and Section 42 of this Act*** for the taxable year.

(2)~~[The declaration of estimated tax required under this section shall be filed with the department by the pass-through entity in the same manner and at the same times as provided by:~~

~~(a) KRS 141.300, for a nonresident individual partner, member, or shareholder; and~~

~~(b) KRS 141.042, for a corporate partner or member.~~

~~(3)~~] The payment of estimated tax shall be made in installments by the pass-through entity in the same manner and at the same times as provided by:

(a) KRS 141.305, for a nonresident individual partner, member, or shareholder; and

(b) KRS 141.044, for a corporate partner or member.

(3)[~~(4)~~] A pass-through entity required to make a[~~ declaration and~~] payment of estimated tax shall be subject to the penalty provisions[~~ of KRS 131.180 and 141.990~~] for any[~~ declaration~~] underpayment ***of estimated tax***[~~or any installment not paid on time~~].

➔Section 51. KRS 141.235 is amended to read as follows:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(2) Any tax collected pursuant to the provisions of this chapter may be refunded or credited in accordance with the provisions of KRS 134.580, except that:

(a) In any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the taxpayer shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

(c) If the claim for refund or credit relates to an overpayment attributable to a net operating loss carryback or capital loss carryback, resulting from a loss which occurs in a taxable year beginning after December 31, 1993, the claim for refund or credit shall be filed within the times prescribed in this subsection for the taxable year of the net operating loss or capital loss which results in the carryback.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Overpayments as defined in KRS 134.580 of taxes collected pursuant to KRS ***141.305***[~~ 141.300~~], 141.310, or 141.315 shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). Effective for refunds issued after April 24, 2008, the interest shall not begin to accrue until ninety (90) days after the latest of:

(a) The due date of the return;

(b) The date the return was filed;

(c) The date the tax was paid;

(d) The last day prescribed by law for filing the return; or

(e) The date an amended return claiming a refund is filed.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the commissioner or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

➔Section 52. KRS 141.305 is amended to read as follows:

(1) ***For taxable years beginning on or after January 1, 2019, every individual shall make estimated income tax payments if his or her:***

(a) Gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed five thousand dollars ($5,000) for the taxable year; or

(b) Adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180.

(2) No estimated tax shall be required if the estimated tax liability can reasonably be expected to be five hundred dollars ($500) or less.

(3) Estimated tax payment for the tax imposed under KRS 141.020 shall be made at the same time and calculated in the same manner as an estimated tax payment for federal income tax purposes under 26 U.S.C. sec. 6654, except:

(a) The estimated tax liability for the tax imposed under KRS 141.020 shall be used to make the estimated payment;

(b) Any provisions in 26 U.S.C. sec. 6654 that apply for federal tax purposes but do not apply to the taxes imposed under KRS 141.020 shall not be included;

(c) The addition to tax identified by 26 U.S.C. sec. 6654(a) shall instead be considered a penalty under Section 4 of this Act;

(d) The tax interest rate identified under KRS 131.183 shall be used to determine the underpayment rate instead of the rate under 26 U.S.C. sec. 6621; and

(e) Any waiver of penalties shall be performed as provided in Section 3 of this Act.

(4) The department may promulgate administrative regulations to implement this section~~[The estimated tax provided for in KRS 141.300 shall be paid as follows:~~

~~(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four (4) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year;~~

~~(b) If the declaration is filed after April 15 and not after June 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three (3) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year;~~

~~(c) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;~~

~~(d) If the declaration is filed after September 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before September 15 of the taxable year, the declaration shall be filed and estimated tax shall be paid on or before January 15 of the succeeding taxable year;~~

~~(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent (50%) of the total estimated tax for 1954.~~

~~(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.~~

~~(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.~~

~~(4) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.~~

~~(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds (2/3) of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on or before January 15 of the succeeding taxable year; and if such an individual files a return on or before March 1 of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return~~

~~shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before January 31.~~

~~(6) The application of this section and KRS 141.300 to taxable years of less than twelve (12) months shall be as prescribed in administrative regulations promulgated by the department.~~

~~(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto~~].

➔Section 53. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials;

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner;

(d) "Recapture period" means:

1. For qualified equipment with a useful life of five (5) or more years, the period from the date the equipment is purchased to five (5) full years from that date; or

2. For qualified equipment with a useful life of less than five (5) years, the period from the date the equipment is purchased to three (3) full years from that date;

(e) "Useful life" means the period determined under Section 168 of the Internal Revenue Code; ***and***

(f)~~["Baseline tax liability" means the tax liability of the taxpayer for the most recent tax year ending prior to January 1, 2005; and~~

~~(g)]~~ "Major recycling project" means a project ***location*** where the taxpayer:

1. Invests more than ten million dollars ($10,000,000) in recycling or composting equipment to be used exclusively in this state;

2. Has more than ***four hundred (400)***~~[seven hundred fifty (750)]~~ full-time employees with an average hourly wage of more than three hundred percent (300%) of the federal minimum wage; and

3. Has plant and equipment with a total cost of more than five hundred million dollars ($500,000,000).

(2) (a) ***1.*** A taxpayer that purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the***:***

a. Income taxes ***under KRS 141.020 or Section 40 of this Act; and***

b. Limited liability entity tax under Section 41 of this Act;

with the ordering of the credits under Section 79 of this Act.~~[imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in]~~

2. The total tax credit shall be an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment.~~[Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.]~~

3. The amount of credit claimed in the ***taxable***~~[tax]~~ year during which the recycling equipment is purchased shall not exceed***:***

a. Ten percent (10%) of the amount of the total credit allowable***; or***~~[and shall not exceed]~~

b. Twenty-five percent (25%) of the total of each tax liability which would be otherwise due ***for that taxable year***.

4. The amount of credit claimed in a taxable year subsequent to the taxable year during which the recycling equipment is purchased shall not exceed twenty-five percent (25%) of the total of each tax liability, which would be otherwise due for that taxable year.

(b) ***1.*** For taxable years beginning after December 31, ***2019***~~[2004]~~, a taxpayer that has a major recycling project containing recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste material shall be entitled to a credit against the***:***

a. Income taxes ***under KRS 141.020 or Section 40 of this Act; and***

b. Limited liability entity tax under Section 41 of this Act;

with the ordering of the credits under Section 79 of this Act.~~[imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in]~~

2. The total tax credit shall be an amount equal to ***twenty-five percent (25%)***~~[fifty percent (50%)]~~ of the installed cost of the recycling or composting equipment.~~[Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.]~~

3. The credit described in this paragraph shall be limited to a period of ***thirty (30)***~~[ten (10)]~~ years commencing with the approval of the recycling credit application.

4. The amount of credit claimed in the taxable year during which the recycling equipment is purchased shall not exceed seventy-five percent (75%)~~[In each taxable year, the amount of credits claimed for all major recycling projects shall be limited to:~~

~~1. Fifty percent (50%) of the excess]~~ of the total of each tax liability ***which would be otherwise due for that taxable year***~~[over the baseline tax liability of the taxpayer; or~~

~~2. Two million five hundred thousand dollars ($2,500,000), whichever is less]~~.

5. The amount of credit claimed in a taxable year subsequent to the taxable year during which the recycling equipment is purchased shall not exceed seventy-five percent (75%) of the total of each tax liability, which would be otherwise due for that taxable year.

(c) A taxpayer with one (1) or more major recycling projects shall be entitled to a total credit including the amount computed in paragraph (a) of this subsection plus the amount of credit computed in paragraph (b) of this subsection***, except that the total amount of credits under paragraphs (a) and (b) of this subsection claimed in a taxable year shall not exceed seventy-five percent (75%) of the total of each tax liability which would be otherwise due for that taxable year***.

(d) A taxpayer shall not be permitted to utilize a credit computed under paragraph (a) of this subsection and a credit computed under paragraph (b) of this subsection on the same recycling or composting equipment.

(3) ***(a)*** Application for a tax credit shall be made to the department~~[of Revenue]~~ on or before the first day of the seventh month following the close of the taxable year in which the recycling or composting equipment is purchased ***or placed in service***.

(b) The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the department~~[of Revenue]~~ may require ***to fulfill the reporting requirements under subsection (8) of this section***.

(c) The department~~[of Revenue]~~ shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

(4) ***(a)*** Except as provided in subsection (6) of this section, if a taxpayer that receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment

before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section.

(b) If the total credit taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.

(c) If the redetermined credit exceeds the total credit already taken in prior taxable years, the taxpayer shall be entitled to use the difference to reduce the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.

(5) The total tax credit allowable under subsection (2) of this section for equipment that is sold, transferred, or otherwise disposed of before the end of the recapture period shall be adjusted as follows:

(a) For equipment with a useful life of five (5) or more years that is sold, transferred, or otherwise disposed of:

1. One (1) year or less after the purchase, no credit shall be allowed.
2. Between one (1) year and two (2) years after the purchase, twenty percent (20%) of the total allowable credit shall be allowed.
3. Between two (2) and three (3) years after the purchase, forty percent (40%) of the total allowable credit shall be allowed.
4. Between three (3) and four (4) years after the purchase, sixty percent (60%) of the total allowable credit shall be allowed.
5. Between four (4) and five (5) years after the purchase, eighty percent (80%) of the total allowable credit shall be allowed.

(b) For equipment with a useful life of less than five (5) years that is sold, transferred, or otherwise disposed of:

1. One (1) year or less after the purchase, no credit shall be allowed.
2. Between one (1) year and two (2) years after the purchase, thirty-three percent (33%) of the total allowable credit shall be allowed.
3. Between two (2) and three (3) years after the purchase, sixty-seven percent (67%) of the total allowable credit shall be allowed.

(6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or transfers due merely to a change in business ownership or organization as long as the equipment continues to be used exclusively in recycling or composting, or transactions to which Section 381(a) of the Internal Revenue Code applies.

(7) The department~~[of Revenue]~~ may promulgate administrative regulations to carry out the provisions of this section.

(8) (a) The purpose of expanding the tax credit for a major recycling project is to encourage more recycling and composting by businesses within the Commonwealth.

(b) In order for the General Assembly to evaluate the fulfillment of the purpose stated in paragraph (a) of this subsection, the department shall provide the following information on a cumulative basis for each taxable year to provide a historical impact of the tax credit to the Commonwealth:

1. A narrative for each major recycling project approved for a tax credit, describing:

a. The taxpayer claiming the tax credit;

b. The industry sector within which the taxpayer operates in this state, including the NAICS code for the taxpayer; and

c. The type of recycling or composting equipment purchased by the taxpayer;

2. The location, by county, of the major recycling project;

3. The installed cost of the recycling or composting equipment;

4. The total amount of tax credit approved for the major recycling project;

5. The amount of tax credit allowed for the major recycling project for each taxable year; and

6. a. In the case of all taxpayers other than corporations, based on ranges of adjusted gross income of no larger than five thousand dollars ($5,000) for the taxable year, the total amount of tax credits claimed and the number of returns claiming a tax credit for each adjusted gross income range; and

b. In the case of all corporations, based on ranges of net income no larger than fifty thousand dollars ($50,000) for the taxable year, the total amount of tax credit claimed and the number of returns claiming a tax credit for each net income range.

(c) The report required by paragraph (b) of this subsection shall be submitted to the Interim Joint Committee on Appropriations and Revenue beginning no later than November 1, 2021, and no later than each November 1 thereafter, as long as the credit is claimed on any return processed by the department.

➔Section 54. KRS 141.402 is amended to read as follows:

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

(a) "Approved company" shall have the same meaning as set forth in KRS 154.25-010;

(b) "Jobs retention project" shall have the same meaning as set forth in KRS 154.25-010;

(c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401;

(d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and

(e) "Tax credit" means the tax credit allowed in KRS 154.25-030.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040(1) shall:

(a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or taxable net income as defined by KRS 141.010~~[(14)]~~, including income from the jobs retention project;

2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

(b) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or taxable net income as defined by KRS 141.010~~[(14)]~~, excluding net income attributable to the jobs retention project;

2. Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

(c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.25-030.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to a jobs retention project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.25-030.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.

(6) (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and

(b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.

(7) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the jobs retention project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the jobs retention project using an alternative method approved by the Department of Revenue.

(8) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this section and KRS 154.25-010 to 154.25-050 and the allowable income tax credit which an approved company may retain under this section and KRS 154.25-010 to 154.25-050.

➔Section 55. KRS 141.408 is amended to read as follows:

(1) There shall be allowed a nonrefundable and nontransferable credit against the tax imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits as provided in KRS 141.0205, for any taxpayer that, on or after January 1, 2018, timely pays an ad valorem tax to the Commonwealth or any political subdivision thereof for property described in KRS 132.020(1)***(e)***~~[(n)]~~ or 132.099.

(2) The credit allowed under subsection (1) of this section shall be in an amount equal to:

(a) Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2018, and before January 1, 2019;

(b) Fifty percent (50%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2019, and before January 1, 2020;

(c) Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2020, and before January 1, 2021; and

(d) One hundred percent (100%) of the ad valorem taxes timely paid, for taxable years beginning on or after January 1, 2021.

(3) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.

(4) No later than October 1, 2019, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:

(a) The name of each taxpayer taking the credit permitted by subsection (1) of this section;

(b) The location of the property upon which the credit was allowed; and

(c) The amount of credit taken by that taxpayer.

➔Section 56. KRS 141.421 is amended to read as follows:

(1) As used in this section:

(a) "Approved company" has the same meaning as in KRS 154.27-010;

(b) "Eligible project" has the same meaning as in KRS 154.27-010;

(c) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

(d) "Kentucky gross profits" has the same meaning as in KRS 141.0401; and

(e) "Tax credit" means the tax credit allowed in KRS 154.27-080.

(2) An approved company shall compute the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040(1) shall:

(a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or taxable net income as defined by KRS 141.010~~[(14)]~~, including income from the eligible project;

2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the eligible project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

(b) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or taxable net income as defined by KRS 141.010~~[(14)]~~, excluding net income attributable to the eligible project;

2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the eligible project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

(c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.27-020.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an eligible project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.27-020.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, tax credit, and estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.

(6) (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and

(b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.

(7) If an approved company can show to the satisfaction of the department that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the eligible project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the eligible project using an alternative method approved by the department.

(8) The department may promulgate administrative regulations and require the filing of forms designed by the department to reflect the intent of this section and KRS 154.27-080 and the allowable income tax credit which an approved company may retain under this section and KRS 154.27-080.

➔Section 57. KRS 141.428 is amended to read as follows:

(1) As used in this section:

(a) "Clean coal facility" means an electric generation facility beginning commercial operation on or after January 1, 2005, at a cost greater than one hundred fifty million dollars ($150,000,000) that is located in the Commonwealth of Kentucky and is certified by the Energy and Environment Cabinet as reducing emissions of pollutants released during generation of electricity through the use of clean coal equipment and technologies;

(b) "Clean coal equipment" means equipment purchased and installed for commercial use in a clean coal facility to aid in reducing the level of pollutants released during the generation of electricity from eligible coal;

(c) "Clean coal technologies" means technologies incorporated for use within a clean coal facility to lower emissions of pollutants released during the generation of electricity from eligible coal;

(d) "Eligible coal" means coal that is subject to the tax imposed under KRS 143.020;

(e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and

(f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).

(2) Effective for tax years ending on or after December 31, 2006, a nonrefundable, nontransferable credit shall be allowed for:

(a) Any electric power company subject to tax under KRS 136.120 and certified as a clean coal facility or any taxpayer that owns or operates a clean coal facility and purchases eligible coal that is used by the taxpayer in a certified clean coal facility; or

(b) A parent company of an entity identified in paragraph (a) of this subsection if the subsidiary is wholly owned.

(3) (a) The credit may be taken against the taxes imposed by:

1.~~[~~ ~~KRS 136.070;~~

~~2.]~~ KRS 136.120; or

2.~~[3.]~~ KRS 141.020 or 141.040, and 141.0401.

(b) The credit shall not be carried forward and must be used on the tax return filed for the period during which the eligible coal was purchased. The Energy and Environment Cabinet must approve and certify use of the clean coal equipment and technologies within a clean coal facility before any taxpayer may claim the credit.

(c) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.

(4) The amount of the allowable credit shall be two dollars ($2) per ton of eligible coal purchased that is used to generate electric power at a certified clean coal facility~~[, except that no credit shall be allowed if the eligible coal has been used to generate a credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary]~~.

(5) Each taxpayer eligible for the credit provided under subsection (2) of this section shall file a clean coal incentive credit claim on forms prescribed by the department~~[of Revenue]~~. At the time of filing for the credit, the taxpayer shall submit an electronic report verifying the tons of coal subject to the tax imposed by KRS 143.020 purchased for each year in which the credit is claimed. The department~~[of Revenue]~~ shall determine the amount of the approved credit and issue a credit certificate to the taxpayer.

(6) Corporations and pass-through entities subject to the tax imposed under KRS 141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed under this section, the approved credit against its liability for the taxes, in consecutive order as follows:

(a) The credit shall first be applied against both the tax imposed by KRS 141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering of credits as provided in KRS 141.0205;

(b) The credit shall then be applied to the tax imposed by KRS 136.120.

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

(7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount of approved credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of the income of the pass-through entity. The credit shall be claimed in the same manner as specified in subsection (6) of this section. Each pass-through entity shall notify the department~~[of Revenue]~~ electronically of all partners, members, or shareholders who may claim any amount of the approved credit. Failure to provide information to the department~~[of Revenue]~~ in a manner prescribed by regulation may constitute the forfeiture of available credits to all partners, members, or shareholders associated with the pass-through entity.

(8) The taxpayer shall maintain all records associated with the credit for a period of five (5) years. Acceptable verification of eligible coal purchased shall include invoices that indicate the tons of eligible coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(9) The department~~[of Revenue]~~ shall develop the forms required under this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

(10) The Office of Energy Policy within the Energy and Environment Cabinet and the department~~[of Revenue]~~ shall promulgate administrative regulations necessary to administer this section.

(11) This section shall be known as the Kentucky Clean Coal Incentive Act.

➔Section 58. KRS 141.985 is amended to read as follows:

Except for the addition to tax required when an underpayment of estimated tax occurs under Sections 42 and 52 of this Act, any~~[If the]~~ tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the department. Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.

➔Section 59. KRS 141.990 is amended to read as follows:

(1) Any individual, fiduciary, corporation, employer, or other person who violates any of the provisions of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(2)~~[Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay the declaration of estimated tax shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting declaration credits allowed by KRS 141.070, declaration installment payments actually made, and credit for tax withheld as allowed by KRS 141.350 from seventy percent (70%) of the total income tax liability computed by the taxpayer as shown on the return filed for the tax year. This subsection shall not apply to the tax year in which the death of the taxpayer occurs, nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305, nor in the case of any person having a tax liability of five hundred dollars ($500) or less.~~

~~(3) Any corporation or limited liability pass through entity required by KRS 141.042 to file a declaration of estimated tax and required to pay the declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044 shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any installment not paid on time. Declaration underpayment, for purposes of this subsection, is determined by subtracting five thousand dollars ($5,000) and declaration payments actually made from seventy percent (70%) of the total tax liability due under KRS 141.040 and computed by the taxpayer on the return filed for the tax year. For taxable years beginning on or after January 1, 2006, the penalty imposed by this subsection shall not apply if estimated payments made under subsection (1) of KRS 141.044 are equal to the amount of tax due under KRS 141.040 for the previous taxable year, and the amount of tax due under KRS 141.040 for the previous year was equal to or less than twenty-five thousand dollars ($25,000).~~

~~(4)]~~ Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(3)~~[(5)]~~ In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

(4)~~[(6)]~~ Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, shall be guilty of a Class D felony.

(5)~~[(7)]~~ A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the department and required to be filed with the department by the provisions of this chapter, or by the rules and regulations of the department or by written request for information to the taxpayer by the department.

➔Section 60. KRS 148.853 is amended to read as follows:

(1) ***Beginning July 1, 2020, no applications for the incentives under Section 32 of this Act and KRS 148.851 to 148.860 shall be accepted. All projects with preliminary or final approval under Section 32 of this Act and KRS 148.851 to 148.860 on June 30, 2020, shall continue to be governed by Section 32 of this Act and KRS 148.851 to 148.860.***~~[The General Assembly finds and declares that:~~

~~(a) The general welfare and material well being of the citizens of the Commonwealth depend in large measure upon the development of tourism in the Commonwealth;~~

~~(b) It is in the best interest of the Commonwealth to provide incentives for the creation of new tourism attractions and the expansion of existing tourism attractions within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the incentives offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth;~~

~~(c) The authorities granted by KRS 148.851 to 148.860 are proper governmental and public purposes for which public moneys may be expended; and~~

~~(d) That the creation or expansion of tourism development projects is of paramount importance mandating that the provisions of KRS 139.536 and KRS 148.851 to 148.860 be liberally construed and applied in order to advance public purposes.]~~

(2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the following requirements shall be met:

(a) For a tourism attraction project:

1. The total eligible costs shall exceed one million dollars ($1,000,000), except for a tourism attraction project located in a county designated as an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6), the total eligible costs shall exceed five hundred thousand dollars ($500,000);

2. In any year, including the first year of operation, the tourism attraction project shall be open to the public at least one hundred (100) days; and

3. In any year following the third year of operation, the tourism attraction project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(b) For an entertainment destination center project:

1. The total eligible costs shall exceed five million dollars ($5,000,000);

2. The facility shall contain a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction project or a major convention facility;

3. The incentives shall be dedicated to a public infrastructure purpose that shall relate to the entertainment destination center project;

4. In any year, including the first year of operation, the entertainment destination center project shall:

a. Be open to the public at least one hundred (100) days per year;

b. Maintain at least one (1) major theme restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large-format theater, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure-time activities; and

c. Maintain a minimum occupancy of sixty percent (60%) of the total gross area available for lease with entertainment and food and drink options not including the retail sale of tangible personal property; and

5. In any year following the third year of operation, the entertainment destination center project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(c) For a theme restaurant destination attraction project:

1. The total eligible costs shall exceed five million dollars ($5,000,000);

2. In any year, including the first year of operation, the attraction shall:

a. Be open to the public at least three hundred (300) days per year and for at least eight (8) hours per day; and

b. Generate no more than fifty percent (50%) of its revenue through the sale of alcoholic beverages;

3. In any year following the third year of operation, the theme restaurant destination attraction project shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; and

4. The theme restaurant destination attraction project shall:

a. At the time of final approval, offer a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;

b. In any year, including the first year of operation, maintain seating capacity of four hundred fifty (450) guests and offer live music or live musical and theatrical

entertainment during the peak business hours that the facility is in operation and open to the public; or

c. Within three (3) years of the completion date, the attraction shall obtain a top two (2) tier rating by a nationally accredited service and shall maintain a top two (2) tier rating through the term of the agreement;

(d) For a lodging facility project:

1. a. The eligible costs shall exceed five million dollars ($5,000,000) unless the provisions of subdivision b. of this subparagraph apply.

b. i. If the lodging facility is an integral part of a major convention or sports facility, the eligible costs shall exceed six million dollars ($6,000,000); and

ii. If the lodging facility includes five hundred (500) or more guest rooms, the eligible costs shall exceed ten million dollars ($10,000,000); and

2. In any year, including the first year of operation, the lodging facility shall:

a. Be open to the public at least one hundred (100) days; and

b. Attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(e) Any tourism development project shall not be eligible for incentives if it includes material determined to be lewd, offensive, or deemed to have a negative impact on the tourism industry in the Commonwealth; and

(f) An expansion of any tourism development project shall in all cases be treated as a new stand-alone project.

(3) The incentives offered under the Kentucky Tourism Development Act shall be as follows:

(a) An approved company may be granted a sales tax incentive based on the Kentucky sales tax imposed on sales generated by or arising at the tourism development project; and

(b) 1. For a tourism development project other than a lodging facility project described in KRS 148.851(14)(e) or (f), or a tourism attraction project described in subparagraph 2. of this paragraph:

a. A sales tax incentive shall be allowed to an approved company over a period of ten (10) years, except as provided in subparagraph 5. of this paragraph; and

b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed twenty-five percent (25%);

2. For a tourism attraction project located in an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6):

a. A sales tax incentive shall be allowed to the approved company over a period of ten (10) years; and

b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed thirty percent (30%);

3. For a lodging facility project described in KRS 148.851(14)(e) or (f):

a. A sales tax incentive shall be allowed to the approved company over a period of twenty (20) years; and

b. The sales tax incentive shall not exceed the lesser of total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);

4. Any unused incentives from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire specified percentage of the approved costs has been received through sales tax incentives; and

5. If the approved company is an entertainment destination center that has dedicated at least thirty million dollars ($30,000,000) of the incentives provided under the agreement to a public infrastructure purpose, the agreement may be amended to extend the term of the agreement up to two (2) additional years if the approved company agrees to:

   a. Reinvest in the original entertainment destination project one hundred percent (100%) of any incentives received during the extension that were outstanding at the end of the original term of the agreement; and

   b. Report to the authority at the end of each fiscal year the amount of incentives received during the extension and how the incentives were reinvested in the original entertainment destination project.

➔Section 61. KRS 154.20-232 is amended to read as follows:

(1)~~[(a) Beginning on April 14, 2018, the authority shall not accept any new applications for the Kentucky Angel Investment Act until on or after July 1, 2022.~~

~~(b)]~~ KRS 154.20-230 to 154.20-240 shall be known as the "Kentucky Angel Investment Act."

(2) The purpose of KRS 141.396 and 154.20-230 to 154.20-240 is to encourage capital investment in the Commonwealth by individual investors that will further the establishment or expansion of small businesses, create additional jobs, and foster the development of new products and technologies, by providing tax credits for certain investments in small businesses located in the Commonwealth, operating in the fields of knowledge-based, high-tech, and research and development, and showing a potential for rapid growth.

(3) To participate in the program created by KRS 141.396 and 154.20-230 to 154.20-240:

   (a) Small businesses and individual investors shall request certification from the authority pursuant to KRS 154.20-236. To be qualified, the small businesses and individual investors shall fulfill the requirements outlined in KRS 154.20-234; and

   (b) Once certified, qualified investors may make investments in qualified small businesses, and may apply to the authority for a credit in return for making the investment if that investment qualifies under KRS 154.20-234.

(4) Any qualified investment made in a qualified small business under KRS 154.20-230 to 154.20-240 shall be used by that business, insofar as possible, to leverage additional capital investments from other sources.

➔Section 62. KRS 154.20-250 is amended to read as follows:

~~[(1) Beginning on April 14, 2018, the authority shall not accept any new applications or make preliminary approvals for the Kentucky Investment Fund until on or after July 1, 2022.~~

~~(2) ~~]The purposes of KRS 154.20-250 to 154.20-284 are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small businesses in Kentucky, to provide additional jobs, and to encourage the development of new products and technologies in the state through capital investments. It is the intent of KRS 154.20-250 to 154.20-284 to give investment preference to Kentucky small businesses showing a potential for rapid growth. Insofar as possible, any investment made in a Kentucky small business under the provisions of KRS 154.20-250 to 154.20-284 shall be used by that business to leverage additional capital investments from other sources.

➔Section 63. KRS 154.20-258 is amended to read as follows:

(1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%) of the investor's proportional ownership share of all qualified investments made by its investment fund and verified by the authority. The aggregate tax credit available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to its investment fund. The credit may be applied against:

   (a) Both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205;

   (b)~~[The corporation license tax imposed by KRS 136.070;~~

   ~~(c)]~~ The insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270; and

   (c)~~[(d)]~~ The taxes on financial institutions imposed by KRS 136.300, 136.310, and 136.505.

(2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed fifty percent (50%) of the initial aggregate credit amount approved by the authority for the investment fund which would be proportionally available to the investor. An investor may first claim the credit granted in subsection (1) of this section in the year following the year in which the credit is granted.

(3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section, exceeds the investor's combined tax liabilities against which the credit may be claimed for that year, the investor may carry the excess tax credit forward until the tax credit is used, but the carry-forward of any excess tax credit shall not increase the fifty percent (50%) limitation established by subsection (2) of this section. Any tax credits not used within fifteen (15) years of the approval by the authority of the aggregate tax credit amount available to the investor shall be lost.

(4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, past due taxes, or any other additions to the investor's tax liability. The holder of the tax credit shall assume any and all liabilities and responsibilities of the credit.

(5) The tax credits allowed by this section are not transferable, except that:

(a) A nonprofit entity may transfer, for some or no consideration, any or all of the credits it receives under this section and any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits pursuant to this subsection, the nonprofit entity shall notify the authority and the Department of Revenue of:

1. The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the nonprofit entity transferred its credits;

2. The amount of credits transferred; and

3. Any additional information the authority or the Department of Revenue deems necessary.

(b) If an investor is an entity and is a party to a merger, acquisition, consolidation, dissolution, liquidation, or similar corporate reorganization, the tax credits shall pass through to the investor's successor.

(c) If an individual investor dies, the tax credits shall pass to the investor's estate or beneficiaries in a manner consistent with the transfer of ownership of the investor's interest in the investment fund.

(6) The tax credit amount that may be claimed by an investor shall reflect only the investor's participation in qualified investments properly reported to the authority by the investment fund manager. No tax credit authorized by this section shall become effective until the Department of Revenue receives notification from the authority that includes:

(a) A statement that a qualified investment has been made that is in compliance with KRS 154.20-250 to 154.20-284 and all applicable regulations; and

(b) A list of each investor in the investment fund that owns a portion of the small business in which a qualified investment has been made by virtue of an investment in the investment fund, and each investor's amount of credit granted to the investor for each qualified investment.

The authority shall, within sixty (60) days of approval of credits, notify the Department of Revenue of the information required pursuant to this subsection and notify each investor of the amount of credits granted to that investor, and the year the credits may first be claimed.

(7) After the date on which investors in an investment fund have cumulatively received an amount of credits equal to the amount of credits allocated to the investment fund by the authority, no investor shall receive additional credits by virtue of its investment in that investment fund unless the investment fund's allocation of credits is increased by the authority pursuant to an amended application.

(8) The maximum amount of credits to be authorized by the authority shall be three million dollars ($3,000,000) for each of fiscal years 2002-03 and 2003-04.

➔Section 64. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) (a) The term of the tax incentive agreement shall commence upon the activation date and shall terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date unless paragraph (b) of this subsection applies.

(b) 1. An approved company may request an extension of the fifteen (15) year term as provided in this paragraph. The extension may be granted by the authority for up to ten (10) years under the following conditions:

a. The approved company commits to an additional investment or the creation of additional jobs at the approved economic development project;

b. The approved company consolidates operations, facilities, or services currently located in another state to the Kentucky facility;

c. At the time the extension is granted, the approved company has used less than sixty percent (60%) of the inducements awarded under the tax incentive agreement; and

d. The authority shall not increase the maximum amount of incentives established by the existing tax incentive agreement.

2. If the authority approves the extension, the tax incentive agreement shall be amended as necessary to extend the term, and to incorporate any additional requirements established by the authority as required by this paragraph.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the Department of Revenue, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(7) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(8) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one hundred percent (100%) credit against the Kentucky income tax and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income, Kentucky gross receipts, or Kentucky gross profits of the approved company generated by or arising from the economic development project. The ordering of the credits shall be as provided in KRS 141.0205; and

(b) The aggregate assessments withheld by the approved company in each year.

(9) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(10) The approved company shall not be required to pay estimated tax payments ***under Section 42 of this Act***~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable income, Kentucky gross receipts or Kentucky gross profits generated by or arising from the economic development project.

(11) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

➔Section 65. KRS 154.23-035 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into a tax incentive agreement with any approved company engaged in manufacturing activities with respect to its economic development project. The terms and provisions of each tax incentive agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(5) The tax incentive agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the tax incentive agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in KRS 154.23-025(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one hundred percent (100%) credit against the Kentucky income tax and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed in the approved company's fiscal year,

as determined under KRS 141.401, to the Commonwealth by the approved company on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project. The ordering of the credits shall be as provided in KRS 141.0205; and

(b) The aggregate assessments withheld by the approved company each year.

(8) The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with and after the date of final approval.

(9) The tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments ***under Section 42 of this Act*** ~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable income, Kentucky gross receipts or Kentucky gross profits generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if the total number of full-time qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the tax credits and assessments available to the approved company, pursuant to subsection (11) of this section;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

(14) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

➔Section 66. KRS 154.26-085 is amended to read as follows:

(1) If, prior to July 13, 2004, the authority has given its preliminary approval designating an eligible company as a preliminarily approved company and authorizing the undertaking of an economic revitalization project, but has not entered into a final agreement with the company, the company shall have the one-time option to:

(a) Operate under the existing agreement as preliminarily approved; or

(b) Request the authority to amend the agreement to comply with the amendments to KRS 154.26-090, 154.26-100,~~[136.0704,]~~ and 141.310 in 2004 Ky. Acts ch. 105, secs. 12, 13, 14, and 21.

(2) If, prior to July 13, 2004, the authority has entered into a final agreement with an eligible company, and if the final agreement is still in effect, the company shall have the one-time option to:

(a) Operate under the existing final agreement; or

(b) Request the authority to amend only the employee assessment portion of the final agreement to comply with the amendment to KRS 154.26-100 in 2004 Ky. Acts ch. 105, sec. 13.

➔Section 67. KRS 154.26-095 is amended to read as follows:

~~[(1) Beginning on April 14, 2018, the authority shall not accept any new applications or make preliminary approvals of a revitalization agreement until on or after July 1, 2022.~~

~~(2)]~~By July 1, 2019, and by each July 1 thereafter, the authority and the Department of Revenue shall jointly provide a report to the Interim Joint Committee on Appropriations and Revenue for each project approved under this subchapter. The report shall contain the following information:

(1)~~[(a)]~~ The name of each approved company and the location of each economic revitalization project;

(2)~~[(b)]~~ The amount of approved costs for each economic revitalization project;

(3)~~[(c)]~~ The date the agreement was approved;

(4)~~[(d)]~~ Whether an assessment fee authorized by KRS 154.26-100 was a part of the agreement;

(5)~~[(e)]~~ The number of employees employed in manufacturing, the number of employees employed in coal mining and processing, or the number of employees employed in agribusiness operations;

(6)~~[(f)]~~ Whether the project was a supplemental project; and

(7)~~[(g)]~~ By taxable year, the amount of tax credit claimed on the taxpayer's return, any amount denied by the department, and the amount of any tax credit remaining to be carried forward.

➔Section 68. KRS 154.26-115 is amended to read as follows:

(1) If, prior to July 13, 2004, the authority has given its preliminary approval designating an eligible company as a preliminarily approved company and authorizing the undertaking of an economic revitalization project, but has not entered into a final agreement with the company, the company shall have the one-time option to:

(a) Operate under the existing agreement as preliminarily approved; or

(b) Request the authority to amend the agreement to comply with the amendments to KRS 154.26-090, 154.26-100,~~[136.0704,]~~ and 141.310 in 2004 Ky. Acts ch. 18, secs. 1, 2, 4, and 5.

(2) If, prior to July 13, 2004, the authority has entered into a final agreement with an eligible company, and if the final agreement is still in effect, the company shall have the one-time option to:

(a) Operate under the existing final agreement; or

(b) Request the authority to amend only the employee assessment portion of the final agreement to comply with the amendment to KRS 154.26-100 in 2004 Ky. Acts ch. 18, sec. 2.

➔Section 69. KRS 154.27-080 is amended to read as follows:

An approved company may be eligible for income tax-related incentives as follows:

(1) A credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.040 or 141.020, and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed by the approved company to the Commonwealth for the approved company's tax year, on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the eligible project, with the ordering of credits as provided in KRS 141.0205.

(a) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the tax year for which the tax return of the approved company is filed.

(b) The approved company shall not be required to pay estimated tax payments ***under Section 42 of this Act***~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable income, Kentucky gross receipts, or Kentucky gross profits generated by or arising from the eligible project.

(c) The credit provided by this subsection shall be determined as provided in KRS 141.421.

(2) The approved company or, with the authority's consent, an affiliate of the approved company may require that each employee subject to the state income tax imposed by KRS 141.020, as a condition of employment, agree to pay an assessment of up to four percent (4%) of his or her gross wages. The assessment shall be uniform against all employees against whom it is assessed and shall be imposed at a percentage rate that is negotiated as part of the tax incentive agreement.

(a) 1. The assessment may be imposed against each employee:

a. Whose job was created as a result of the eligible project;

b. Who is employed by the approved company to work at the facility; and

c. Who is on the payroll of the approved company or, with the authority's consent, is on the payroll of an affiliate of the approved company.

2. Construction workers, employees of the approved company directly employed in the construction, retrofit, or upgrade of the eligible facility, contract workers, and leased workers

shall not be considered employees of the approved company for purposes of the assessment permitted by this subsection.

(b) Each employee so assessed shall be entitled to credits against Kentucky income tax equal to the assessment withheld from wages during the calendar year as provided by KRS 141.310 and 141.421.

(c) An approved company that elects to impose the assessment as a condition of employment is authorized to deduct the assessment from each paycheck of each employee.

(d) The approved company shall provide to the authority the information necessary to monitor the tax incentive agreement and the authorization for the authority to share the information with the department as necessary for purposes of enforcing the terms of the tax incentive agreement.

(e) Any assessment imposed pursuant to this subsection shall permanently expire upon termination or expiration of the tax incentive agreement.

➔Section 70. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky Department of Revenue, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(6) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project, with the ordering of credits as provided in KRS 141.0205; or

(b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.

(8) Either the total tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(9) If the approved company elects to use the tax credit, the income tax and limited liability entity tax imposed under KRS 141.0401 credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments ***under Section 42 of this Act*** ~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable income, Kentucky gross profits, or Kentucky gross receipts generated by or arising from the economic development project.

(10) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company, pursuant to subsection (5) of this section;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.

(13) By October 1 of each year, the Department of Revenue shall certify to the authority, in the form of an annual report, aggregate tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken tax credits or assessments equal to its total inducements.

➔Section 71. KRS 154.32-070 is amended to read as follows:

(1) For taxable years beginning after December 31, 2009, an approved company may be eligible for a credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, that would otherwise be owed by the approved company to the Commonwealth for the approved company's taxable year, on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project.

(2) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the taxable year for which the tax return of the approved company is filed, subject to the annual maximum set forth in the tax incentive agreement. Any credit not used in the year in which it was first available may be carried forward to subsequent years, provided that no credit may be carried forward beyond the term of the tax incentive agreement.

(3) The approved company shall not be required to pay estimated tax payments ***under Section 42 of this Act*** ~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable income, Kentucky gross receipts, or Kentucky gross profits generated by or arising from the eligible project.

(4) The credit provided by this section shall be determined as provided in KRS 141.415.

(5) The amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the economic development project for that year or the annual maximum approved costs set forth in the tax incentive agreement. The incentives shall be allowed for each fiscal year of the approved company during the term of the tax incentive agreement for which a tax return is filed by the approved company.

➔Section 72. KRS 154.34-120 is amended to read as follows:

(1) Except as provided in subsection (5) of this section, for taxable years beginning after December 31, 2009, an approved company may be eligible for a nonrefundable credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed

under KRS 141.0401 that would otherwise be owed by the approved company to the Commonwealth for the approved company's tax year, on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the reinvestment project.

(2) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the tax year for which the tax return of the approved company is filed. Any credit not used in the year in which it was first available may be carried forward to subsequent years, provided that no credit may be carried forward beyond the term of the reinvestment agreement.

(3) The approved company shall not be required to pay estimated tax payments ***under Section 42 of this Act*** ~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable income, Kentucky gross receipts, or Kentucky gross profits generated by or arising from the eligible project.

(4) The credit provided by this section shall be determined as provided in KRS 141.415.

(5) (a) For an approved company which receives preliminary approval prior to February 1, 2010, the amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the reinvestment project for that taxable year or the approved costs that have not yet been recovered.

(b) For an approved company which receives preliminary approval on or after February 1, 2010, the amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the reinvestment project for that taxable year or twenty percent (20%) of the total amount of the approved costs.

(c) The incentives shall be allowed for each taxable year of the approved company during the term of the reinvestment agreement for which a tax return is filed by the approved company.

➔Section 73. KRS 155.170 is amended to read as follows:

(1) An annual excise tax is hereby levied on every corporation organized under this chapter for the privilege of transacting business in this Commonwealth during the calendar year, according to or measured by its entire net income, as defined herein, received or accrued from all sources during the preceding calendar year, hereinafter referred to as taxable year, at the rate of four and one-half percent (4.5%) of such entire net income. The minimum tax assessable to any one (1) such corporation shall be ten dollars ($10). The liability for the tax imposed by this section shall arise upon the first day of each calendar year, and shall be based upon and measured by the entire net income of each such corporation for the preceding calendar year, including all income received from government securities in such year. As used in this section the words "taxable year" mean the calendar year next preceding the calendar year for which and during which the excise tax is levied.

(2) The excise tax levied under subsection (1) of this section shall be in lieu of~~[the corporation license tax imposed by KRS 136.070,]~~ the taxes imposed by KRS 141.040, and the taxes imposed by KRS 141.0401. It is the purpose and intent of the General Assembly to levy taxes on corporations organized pursuant to this chapter so that all such corporations will be taxed uniformly in a just and equitable manner in accordance with the provisions of the Constitution of the Commonwealth of Kentucky. The intent of this section is for the General Assembly to exercise the powers of classification and of taxation on property, franchises, and trades conferred by Section 171 of the Constitution of the Commonwealth.

(3) On or before June 1 of each year, the executive officer or officers of each corporation shall file with the commissioner of the Department of Revenue a full and accurate report of all income received or accrued during the taxable year, and also an accurate record of the legal deductions in the same calendar year to the end that the correct entire net income of the corporation may be determined. This report shall be in such form and contain such information as the commissioner of the Department of Revenue may specify. At the time of making such report by each corporation, the taxes levied by this section with respect to an excise tax on corporations organized pursuant to this chapter shall be paid to the commissioner of the Department of Revenue.

(4) The securities, evidences of indebtedness, and shares of the capital stock issued by the corporation established under the provisions of this chapter, their transfer, and income therefrom and deposits of financial institutions invested therein, shall at all times be free from taxation within the Commonwealth.

(5) Any stockholder, member, or other holder of any securities, evidences of indebtedness, or shares of the capital stock of the corporation who realizes a loss from the sale, redemption, or other disposition of any securities, evidences of indebtedness, or shares of the capital stock of the corporation, including any such loss realized on

a partial or complete liquidation of the corporation, and who is not entitled to deduct such loss in computing any of such stockholder's, member's, or other holder's taxes to the Commonwealth shall be entitled to credit against any taxes subsequently becoming due to the Commonwealth from such stockholder, member, or other holder, a percentage of such loss equivalent to the highest rate of tax assessed for the year in which the loss occurs upon mercantile and business corporations.

➔Section 74. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the district, of utility services, except that "gross receipts" shall not include:

(a) Amounts received for furnishing energy or energy-producing fuels ***to a person engaged in manufacturing or industrial processing if that person provides the utility services provider with a copy of its utility gross receipts license tax energy direct pay authorization, as provided in subsection (3) of this section, and the utility service provider retains a copy of the authorization in its records***~~[, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production]~~; or

(b) Amounts received for furnishing utility services which are to be resold.

(2) If any user of utility services purchases the utility services directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax, then the user of the utility services, if the tax has been levied in the user's ***school*** district, shall be liable for the tax and shall ***register with and*** pay directly to the department, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all utility services received by the tax rate levied under the provisions of this section.

(3) ~~[If]~~A person engaged in manufacturing ***or industrial***~~[,]~~ processing ***whose cost of***~~[, mining, or refining chooses to claim that the]~~ energy or energy-producing fuels ***used in the course of manufacturing or industrial processing***~~[purchased from a utility services provider]~~ exceeds an amount equal to three percent (3%) of the cost of production ***may apply to the department for a utility gross receipts license tax energy direct pay authorization. Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or processing production process that ends with a product packaged and ready for sale. If the person***~~[as provided in subsection (1)(a) of this section and]~~ receives confirmation of eligibility from the department, the person shall:

(a) Provide the utility services provider with a copy of the ***utility gross receipts license tax*** energy direct pay authorization issued by the department ***for all purchases of energy and energy-producing fuels***; and

(b) Report and pay directly to the department, in accordance with the provisions of KRS 160.615, the utility gross receipts license tax due.

(4) A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.

(5) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:

(a) Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;

(b) Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;

(c) Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;

(d) Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A

business purpose is a purpose other than the reduction of utility gross receipts license tax liability for the purchases of energy and energy-producing fuels; and

(e) Provides information to the department upon request that documents fulfillment of the requirements in paragraphs (a) to (d) of this subsection and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility.

➔Section 75. KRS 160.6131 is amended to read as follows:

As used in KRS 160.613 to 160.617:

(1) "Department" means the Department of Revenue;

(2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to:

1. Local and long-distance telephone services;

2. Telegraph and teletypewriter services;

3. Postpaid calling services;

4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;

5. Channel services involving a path of communications between two (2) or more points;

6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;

7. Caller ID services, ring tones, voice mail, and other electronic messaging services;

8. Mobile wireless telecommunications service and fixed wireless service as defined in KRS 139.195; and

9. Voice over Internet Protocol (VOIP).

(b) "Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:

1. Information services;

2. Internet access as defined in 47 U.S.C. sec. 151;

3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;

4. The sale of directory and other advertising and listing services;

5. Billing and collection services provided to another communications service provider;

6. Cable service, satellite broadcast, satellite master antenna television, wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996, and Internet protocol television provided through wireline facilities without regard to delivery technology;

7. The sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale, including:

a. Carrier access charges, excluding user access fees;

b. Right of access charges;

c. Interconnection charges paid by the provider of mobile telecommunications services or other communications providers;

d. Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is provided on an unbundled basis in accordance with 47 U.S.C. sec. 251(c)(3); and

e. Charges for use of facilities for providing or receiving communications service;

8. The sale of communications services provided to the public by means of a pay phone;

9. Prepaid calling services and prepaid wireless calling service;

10. Interstate telephone service, if the interstate charge is separately itemized for each call; and

11. If the interstate calls are not itemized, the portion of telephone charges identified and set out on the customer's bill as interstate as supported by the provider's books and records;

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased;

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services;

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas;

(6) "Cable service" has the same meaning as~~[provided]~~ in KRS 136.602;

(7) "Satellite broadcast and wireless cable service" has the same meaning as~~[provided]~~ in KRS 136.602;

(8) "Ring tones" has the same meaning as~~[provided]~~ in KRS 136.602;~~[and]~~

(9) "Multichannel video programming service" has the same meaning as in KRS 136.602***;***

(10) "Industrial processing" has the same meaning as in Section 19 of this Act;

(11) "Manufacturing" has the same meaning as in Section 19 of this Act; and

(12) "Plant facility" has the same meaning as in Section 19 of this Act.

➔Section 76. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the Department of Revenue is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the Department of Revenue, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.

(3) The following shall apply only when the Department of Revenue is acting as tax collector under the authority of KRS 160.627(2):

(a) When the department is initially requested to be the tax collector under KRS 160.627(2), the department shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the department ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the department. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the department has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the department.

(b) The Department of Revenue shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the department in collecting the excise tax. The expenses, which shall be deducted by the Department of Revenue from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the department to school districts on a basis proportionate to the number of returns processed by the Department of Revenue for each district compared to the total processed by the Department of Revenue for all districts.

(c) All funds received by the department under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the

restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the department for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The department may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the Department of Revenue to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580***(6)*** ~~[(5)]~~, and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580***(7)*** ~~[(6)]~~, within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the department is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982, any school district which requests the department to collect taxes under the authority of KRS 160.627(2) shall inform the department of this request not less than one hundred fifty (150) days prior to January 1.

(g) The department shall not be required to collect taxes authorized in KRS 160.621 of an individual when the department is not pursuing collection of that individual's state income taxes. The department shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the Department of Revenue with respect to the performance of its duties under KRS 160.621.

➔Section 77. KRS 243.884 is amended to read as follows:

(1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of beer, and all microbreweries selling malt beverages under KRS 243.157.

(b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making "wholesale sales" shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3)(b) and (c).

(c) On and after July 1, 2015, the following rates shall apply:

1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and

2. For wine and beer:

a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;

b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;

c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and

d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.

(2) Wholesalers of distilled spirits and wine, distributors of malt beverages, and microbreweries shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, or by microbreweries to consumers in this state, in accordance with rules

and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.

(3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors; and

(b) Sales ***from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year*** made by***:*** ~~[a]~~

1. ***The*** small farm winery***;*** or

2. ***A*** wholesaler of ***that*** wine produced by ***the*** ~~[a]~~ small farm winery~~[, if that small farm winery produces no more than fifty thousand (50,000) gallons of wine per year]~~.

➔Section 78. KRS 272.333 is amended to read as follows:

The provisions of KRS 136.060~~[and 136.070]~~ shall not apply to the issuance of membership certificates, shares of stock or any other evidence of member, shareholder, or patron interest by any such agricultural cooperative association.

➔Section 79. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;

(c) The qualified farming operation credit permitted by KRS 141.412;

(d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

(e) The health insurance credit permitted by KRS 141.062;

(f) The tax paid to other states credit permitted by KRS 141.070;

(g) The credit for hiring the unemployed permitted by KRS 141.065;

(h) The recycling or composting equipment credit permitted by KRS 141.390;

(i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(j) The research facilities credit permitted by KRS 141.395;

(k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 164.0062;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The clean coal incentive credit permitted by KRS 141.428;

(o) The ethanol credit permitted by KRS 141.4242;

(p) The cellulosic ethanol credit permitted by KRS 141.4244;

(q) The energy efficiency credits permitted by KRS 141.436;

(r) The railroad maintenance and improvement credit permitted by KRS 141.385;

(s) The Endow Kentucky credit permitted by KRS 141.438;

(t) The New Markets Development Program credit permitted by KRS 141.434;

(u) The distilled spirits credit permitted by KRS 141.389;

(v) The angel investor credit permitted by KRS 141.396;

(w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018; and

(x) The inventory credit permitted by KRS 141.408.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069;~~[and]~~

(d) The household and dependent care credit permitted by KRS 141.067***; and***

(e) The income gap credit permitted by Section 43 of this Act.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305;

(c) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and

(d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;

(b) The qualified farming operation credit permitted by KRS 141.412;

(c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

(d) The health insurance credit permitted by KRS 141.062;

(e) The unemployment credit permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The coal conversion credit permitted by KRS 141.041;

(h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(j) The research facilities credit permitted by KRS 141.395;

(k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 164.0062;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The clean coal incentive credit permitted by KRS 141.428;

(o) The ethanol credit permitted by KRS 141.4242;

(p) The cellulosic ethanol credit permitted by KRS 141.4244;

(q) The energy efficiency credits permitted by KRS 141.436;

(r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;

(s) The railroad maintenance and improvement credit permitted by KRS 141.385;

(t) The railroad expansion credit permitted by KRS 141.386;

(u) The Endow Kentucky credit permitted by KRS 141.438;

(v) The New Markets Development Program credit permitted by KRS 141.434;

(w) The distilled spirits credit permitted by KRS 141.389;

(x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018; and

(y) The inventory credit permitted by KRS 141.408.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

(a) The corporation estimated tax payment credit permitted by KRS 141.044;

(b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and

(c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

➔Section 80. The following KRS sections are repealed:

136.078 Disposition of receipts.

136.090 Reports of corporations for license tax purposes -- Subject matter.

136.100 Time of filing reports -- Period covered -- Change of period.

136.377 Filing of declaration of estimated tax by company -- Payment -- Penalty.

141.042 Declaration of estimated corporation and limited liability pass-through entity tax.

141.300 Declaration of estimated tax.

➔Section 81. Sections 9 and 10 of this Act shall apply to tangible personal property assessed on or after January 1, 2020.

➔Section 82. Sections 17 to 25, 28 to 30, 33, 34, 74, and 75 apply to transactions occurring on or after July 1, 2019.

➔Section 83. Sections 35 to 39 and 46 to 48 apply to taxable years beginning on or after January 1, 2019.

➔Section 84. Section 53 applies to taxable years beginning on or after January 1, 2021.

➔Section 85. Sections 61 to 71 apply retroactively to April 14, 2018.

➔Section 86. No claim for refund or credit of a tax overpayment for any taxable period ending prior to July 1, 2018, made by an amended return, tax refund application, or any other method after June 30, 2018, and based on the amendments to subsection (3) of Section 27 of this Act or based on the amendments to Section 74 or 75 of this Act, shall be recognized for any purpose.

➔Section 87. Notwithstanding KRS 446.090, the amendments to subsection (3) of Section 27 of this Act and the amendments to Sections 74 and 75 of this Act are not severable. If the amendment made to subsection (3) of Section 27 of this Act or the amendments to Section 74 or 75 of this Act is declared invalid for any reason, then all amendments to subsection (3) of Section 27 of this Act and the amendments to Sections 74 and 75 of this Act shall also be invalid.

➔Section 88. It is the intent of the General Assembly to study the long-term impact of the income tax on certain family-size households and to extend the provisions of Section 43 of this Act or find a permanent alternative to those provisions.

➔Section 89. Whereas it is important for the General Assembly to clarify certain tax provisions immediately, an emergency is declared to exist, and Sections 28 and 29 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 26, 2019.

CHAPTER 152

(HB 148)

AN ACT relating to abortion.

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

➔SECTION 1. A NEW SECTION OF KRS 311.715 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Fertilization" means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum;

(b) "Pregnant" means the human female reproductive condition of having a living unborn human being within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth; and

(c) "Unborn human being" means an individual living member of the species homo sapiens throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

(2) The provisions of this section shall become effective immediately upon, and to the extent permitted, by the occurrence of any of the following circumstances:

(a) Any decision of the United States Supreme Court which reverses, in whole or in part, Roe v. Wade, 410 U.S. 113 (1973), thereby restoring to the Commonwealth of Kentucky the authority to prohibit abortion; or

(b) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the Commonwealth of Kentucky the authority to prohibit abortion.

(3) (a) No person may knowingly:

1. Administer to, prescribe for, procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being; or

2. Use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

(b) Any person who violates paragraph (a) of this subsection shall be guilty of a Class D felony.

(4) The following shall not be a violation of subsection (3) of this section:

(a) For a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of the unborn human being in a manner consistent with reasonable medical practice; or

(b) Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn human being.

(5) Nothing in this section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

(6) Nothing in this section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.

(7) The provisions of this section shall be effective relative to the appropriation of Medicaid funds, to the extent consistent with any executive order by the President of the United States, federal statute, appropriation rider, or federal regulation that sets forth the limited circumstances in which states must fund abortion to remain eligible to receive federal Medicaid funds pursuant to 42 U.S.C. secs. 1396 et. seq.

➔Section 2. This Act may be cited as the Human Life Protection Act.

Signed by Governor March 26, 2019.

CHAPTER 153

(HB 144)

AN ACT relating to Kentucky Public Employees Deferred Compensation Authority.

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

➔Section 1. KRS 18A.245 is amended to read as follows:

(1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:

(a) Secretary, Finance and Administration Cabinet, ex officio;

(b) Secretary of personnel, ex officio;

(c) The state controller, ex officio;

(d) The State Treasurer, ex officio; and

(e) ~~[(d)]~~ ***Three (3)*** ~~[Four (4)]~~ at-large members appointed by the Governor, who do not have a conflict of interest as provided by KRS 18A.262, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government employer.

(2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office. Each ex officio member may designate a proxy by written notice to the authority prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of one hundred dollars ($100) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The authority shall be attached to the Personnel Cabinet for administrative purposes only. The board may take but is not limited to the following actions:

(a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A. The executive director of the authority and employees appointed by the

board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;

(b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;

(c) Establish a system of accounting;

(d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(e) Do all things, take all actions, and adopt plans for participation consistent with federal law and with the provisions of KRS 18A.230 to 18A.275, including but not limited to:

1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;

2. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A;

3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees; and

4. Upon the request of the Kentucky Retirement Systems board of trustees, establishing an investment program for the 401(a) defined contribution plan as provided by KRS 61.5956; and

(f) Contract with persons or companies duly licensed by the state of Kentucky and applicable federal regulatory agencies, at the cost of the trust fund, to provide investment advice to participants in the plans, with respect to their selection of permitted investments in the plans.

(8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

➔Section 2. KRS 18A.275 is amended to read as follows:

The board shall select a custodian of the funds collected under KRS 18A.230 to 18A.275 and the authority shall administer the funds so collected as provided in this chapter.~~[The State Treasurer shall be the custodian of the funds collected under KRS 18A.235 and shall upon warrants issued by the Finance and Administration Cabinet pay to the board the amounts so collected to be administered as provided in KRS 18A.230 to 18A.275. The treasurer of the local unit of government shall likewise be the custodian of any funds created by KRS 18A.270 and shall pay to the board the amounts so collected to be administered as provided in KRS 18A.230 to 18A.275.]~~

➔Section 3. KRS 18A.250 is amended to read as follows:

(1) The authority shall establish and maintain a deferred compensation plan for the employees of the State of Kentucky. Participation in such plan shall be by agreement between such employees and the authority and shall provide for the deferral of such amount of compensation as requested by the employee. Participating employees must authorize that such deductions be made from their wages for the purpose of participation in such program.~~[Amounts so deducted shall be deposited in the State Treasury to the credit of the trust fund.]~~

(2) The board is directed to develop and obtain, for the benefit of employees, a qualified employee plan that includes a qualified cash or deferred arrangement as described in Section 401(K)(2) of the Internal Revenue Code. The board is directed to develop a program for participants to borrow from their account or accounts in the plan. The plan shall be in addition to other plans offered by the board, and shall be offered to employees upon receipt of appropriate approval of the Internal Revenue Service or on January 1, 1985, whichever occurs later.

(3) Notwithstanding the provisions of KRS 337.060, agreements to participate and plan elections made by employees pursuant to subsections (1) and (2) of this section may be made in writing or by electronic record, signature, or contract as determined by the authority and in accordance with the provisions of KRS 369.101 to 369.120. Agreements and elections, including but not limited to hardship withdrawal applications, loan applications, beneficiary designations, and withdrawal requests made by participating employees under the

plan, shall not be denied legal effect or enforceability if made electronically to the extent permitted by the authority.

Signed by Governor March 26, 2019.

CHAPTER 154

(HB 140)

AN ACT relating to the Kentucky Center for Education and Workforce Statistics.

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

➔Section 1. KRS 151B.131 is amended to read as follows:

As used in KRS 151B.131 to 151B.134, unless the context requires otherwise:

(1) "Board" means the Board of the Kentucky Center for~~[Education and Workforce]~~ Statistics established in KRS 151B.134(1);

(2) "De-identification" means a process for removing identity information so the~~[education]~~ data~~[and workforce data]~~ can be analyzed without disclosing the identity of the individuals or employers whose data are being utilized;

(3) "Education data" means the following data relating to student performance from early childhood learning programs through postsecondary education:

(a) College and career readiness;

(b) Course and grade;

(c) Degree, diploma, or credential attainment;

(d) Demographic;

(e) Educator;

(f) Enrollment;

(g) Financial aid;

(h) High School Equivalency Diploma;

(i) Remediation;

(j) Retention;

(k) State and national assessments;

(l) Transcripts;

(m) Vocational and technical education information; and

(n) Any other data impacting education deemed necessary by the office;

(4) "Kentucky Longitudinal Data System" is a statewide data system that contains education***, workforce, and additional*** data ***identified by the Board of the Kentucky Center for Statistics***~~[and workforce data]~~;

(5) "Office" means the Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics established in KRS 151B.132(1); and

(6) "Workforce data" means data relating to:

(a) Certification and licensure;

(b) Employer information;

(c) Employment status;

(d) Geographic location of employment;

(e) Job service and training information to support enhanced employment opportunities;

(f) Wage information; and

(g) Any other data impacting the workforce deemed necessary by the office.

➔Section 2. KRS 151B.132 is amended to read as follows:

(1) The Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics is hereby established and attached to the Education and Workforce Development Cabinet, Office of the Secretary.

(2) The office's purpose is to collect accurate~~[education data and workforce]~~ data in the Kentucky Longitudinal Data System in order to link the data and generate timely reports about student performance through employment to be used to guide decision makers in improving the Commonwealth of Kentucky's education system and training programs.

(3) The office shall be headed by an executive director appointed by the Governor pursuant to KRS 12.050. The executive director shall be appointed from nominations made to the Governor by the board. The office may employ additional staff necessary to carry out the office's duties consistent with available funding and state personnel laws.

(4) The public agencies providing~~[education data and workforce]~~ data to the Kentucky Longitudinal Data System shall be:

(a) The Council on Postsecondary Education;

(b) The Department of Education;

(c) The Early Childhood Advisory Council;

(d) ~~[The Education Professional Standards Board;~~

~~(e)]~~The Kentucky Higher Education Assistance Authority;

(e)~~[(f)]~~ The Kentucky Commission on Proprietary Education; and

(f)~~[(g)]~~ Other agencies of the Education and Workforce Development Cabinet.

(5) The Kentucky Longitudinal Data System, upon approval of the board, may include~~[education data and workforce]~~ data from any additional public agency.

(6) Any private institution of higher education, private school, or parochial school, upon approval of the board, may provide~~[education data and workforce]~~ data to the Kentucky Longitudinal Data System.

(7) Any~~[education data or workforce]~~ data provided to the Kentucky Longitudinal Data System shall be certified to be accurate by the providing agency, institution, or school. Ownership of data provided shall be retained by the providing entity.

(8) The office may receive funding for its operation of the Kentucky Longitudinal Data System from the following sources:

(a) State appropriations;

(b) Federal grants;

(c) User fees; and

(d) Any other grants or contributions from public agencies or other entities.

➔Section 3. KRS 151B.133 is amended to read as follows:

The duties of the Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics shall be to:

(1) Oversee and maintain the warehouse of~~[education data and workforce]~~ data in the Kentucky Longitudinal Data System;

(2) Develop de-identification standards and processes using modern statistical methods;

(3) Conduct research and evaluation regarding federal, state, and local education and training programs at all levels;

(4) Audit and ensure compliance of education and training programs with applicable federal and state requirements as authorized by federal and state law;

(5) Work with public agencies and other entities to define statewide education, workforce development, and employment metrics and ensure the integrity and quality of data being collected;

(6) Link~~[education data and workforce]~~ data from multiple sources for consideration in developing broad public policy initiatives;

(7) Develop requirements and definitions for data to be provided by any public agency, private institution of higher education, private school, or parochial school, as directed by the Board of the Kentucky Center for~~[Education and Workforce]~~ Statistics;

(8) Develop a reasonable fee schedule for services provided;

(9) Establish data quality standards;

(10) Promulgate administrative regulations necessary for the proper administration of the Kentucky Longitudinal Data System;

(11) Ensure compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec 1232g, and all other relevant federal and state privacy laws;

(12) Respond to approved research data requests in accordance with the data access and use policy established by the board;

(13) Develop and disseminate, in cooperation with the Council on Postsecondary Education and the Department of Education, information on the employment and earnings of the public postsecondary institution graduates in Kentucky. This information shall be updated at least every three (3) years and shall be:

(a) Posted on the Web site of the Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics;

(b) Posted on the Web site of the Council on Postsecondary Education;

(c) Posted on the Web site of each public postsecondary institution, with the Web site address published in each institution's catalogue; and

(d) Made available to every high school guidance and career counselor, who shall be notified of its availability for the purpose of informing all high school students preparing for postsecondary education; and

(14) Enter into contracts or other agreements with appropriate entities, including but not limited to federal, state, and local agencies, to the extent necessary to carry out its duties and responsibilities only if such contracts or agreements incorporate adequate protections with respect to the confidentiality of any information to be shared.

➔Section 4. KRS 151B.134 is amended to read as follows:

(1) The Board of the Kentucky Center for~~[Education and Workforce]~~ Statistics is hereby established and attached to the Education and Workforce Development Cabinet, Office of the Secretary.

(2) The board shall be composed of:

(a) The commissioner of the Department of Education or designee;

(b) The ***secretary***~~[executive director]~~ of the ***Cabinet for Health and Family Services***~~[Education Professional Standards Board]~~ or designee;

(c) The president of the Council on Postsecondary Education or designee;

(d) The secretary of the Education and Workforce Development Cabinet or designee; and

(e) The executive director of the Kentucky Higher Education Assistance Authority ***or designee***.

(3) The duties and functions of the board shall be to:

(a) Develop a detailed data access and use policy for requests that shall include but not be limited to the following:

1. Direct access to data in the Kentucky Longitudinal Data System shall be restricted to authorized staff of the office;

2. Data or information that may result in any individual or employer being identifiable based on the size or uniqueness of the population under consideration may not be reported in any form by the office; and

3. The office may not release data or information if disclosure is prohibited under relevant federal or state privacy laws;

(b) Establish the research agenda of the office;

(c) Make nominations to the Governor for the appointment of an executive director;

(d) Oversee compliance by the office with the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and other relevant federal and state privacy laws;

(e) Ensure that reports generated by the Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics are distributed to appropriate personnel within the agencies represented by the board members; and

(f) Provide general oversight of the office.

(4) The secretary of the Education and Workforce Development Cabinet shall serve as chair of the board.

(5) The board shall meet at least semiannually and at other times upon the call of the chair. The meetings shall be subject to the open meetings requirements of KRS 61.800 to 61.850 and 61.991.

(6) The board may form committees, work groups, or advisory councils to accomplish its purposes.

➔Section 5. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) (a) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being

determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent, except that the Kentucky Community and Technical College System may assess a mandatory student fee not to exceed eight dollars ($8) per credit hour to be used exclusively for debt service on amounts not to exceed seventy-five percent (75%) of the total projects cost of the Kentucky Community and Technical College System agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.

(b) The Kentucky Community and Technical College System mandatory fee established in this subsection shall only be used for debt service on agency bond projects.

(c) Any fee established as provided by this subsection shall cease to be assessed upon the retirement of the project bonds for which it services debt.

(d) Prior to the issuance of any bonds, the Kentucky Community and Technical College System shall certify in writing to the secretary of the Finance and Administration Cabinet that sufficient funds have been raised to meet the local match equivalent to twenty-five percent (25%) of the total project cost;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

(14) Establish course credit, transfer, and degree components as required in KRS 164.2951;

(15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;

(23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(25) (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:

1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ethical considerations arising from board membership, and the board member removal and replacement provisions of KRS 63.080;

2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;

3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and

4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;

(b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and

(c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;

(26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(27) Select and appoint a president of the council under KRS 164.013;

(28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;

(32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(33) Develop a statewide policy to promote employee and faculty development in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term. The employee shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. The amount of tuition waived shall not exceed the cost of tuition at the institution less any state or federal grants received, which shall be credited first to the student's tuition;

(34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:

(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;

(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

(e) Administer the adult education and literacy initiative fund created under KRS 164.041;

(35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary

education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;

(36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(l);

(37) Cooperate with the Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics and ensure the participation of the public institutions as required in KRS 151B.133;

(38) Pursuant to KRS 63.080, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and

(39) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 6. KRS 164.036 is amended to read as follows:

(1) The Council for Educational Research is hereby established.

(2) At least once each year, the council shall advise the Board of the Kentucky Center for~~[Education and Workforce]~~ Statistics and the Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics on the data needed by colleges of education for conducting education research.

(3) The deans of the colleges of education at each public research and comprehensive university shall serve on the council or appoint a designee from the research faculty in the college of education.

➔Section 7. KRS 12.020 is amended to read as follows:

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

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

(1) The Governor.

(2) Lieutenant Governor.

(3) Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

(4) Department of Law.

(a) Attorney General.

(5) Department of the Treasury.

(a) Treasurer.

(6) Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

(7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

(1) Justice and Public Safety Cabinet:

(a) Department of Kentucky State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Office of Drug Control Policy.

(g) Office of Legal Services.

(h) Office of the Kentucky State Medical Examiner.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Office of Legislative and Intergovernmental Services.

(l) Office of Management and Administrative Services.

(m) Department of Public Advocacy.

(2) Education and Workforce Development Cabinet:

(a) Office of the Secretary.

1. Governor's Scholars Program.

2. Governor's School for Entrepreneurs Program.

(b) Office of Legal and Legislative Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of Budget and Administration.

1. Division of Human Resources.

2. Division of Administrative Services.

(e) Office of Technology Services.

(f) Office of Educational Programs.

(g) Office ***of the Kentucky Center*** for~~[Education and Workforce]~~ Statistics.

(h) Board of the Kentucky Center for~~[Education and Workforce]~~ Statistics.

(i) Board of Directors for the Center for School Safety.

(j) Department of Education.

1. Kentucky Board of Education.

2. Kentucky Technical Education Personnel Board.

(k) Department for Libraries and Archives.

(l) Department of Workforce Investment.

1. Office for the Blind.

2. Office of Vocational Rehabilitation.

3. Office of Employment and Training.
    a. Division of Grant Management and Support.
    b. Division of Workforce and Employment Services.
    c. Division of Unemployment Insurance.

(m) Foundation for Workforce Development.

(n) Kentucky Office for the Blind State Rehabilitation Council.

(o) Kentucky Workforce Investment Board.

(p) Statewide Council for Vocational Rehabilitation.

(q) Unemployment Insurance Commission.

(r) Education Professional Standards Board.
1. Division of Educator Preparation.
2. Division of Certification.
3. Division of Professional Learning and Assessment.
4. Division of Legal Services.

(s) Kentucky Commission on the Deaf and Hard of Hearing.

(t) Kentucky Educational Television.

(u) Kentucky Environmental Education Council.

(3) Energy and Environment Cabinet:

(a) Office of the Secretary.
1. Office of Legislative and Intergovernmental Affairs.
2. Office of Legal Services.
    a. Legal Division I.
    b. Legal Division II.
3. Office of Administrative Hearings.
4. Office of Communication.
5. Mine Safety Review Commission.
6. Office of Kentucky Nature Preserves.
7. Kentucky Public Service Commission.

(b) Department for Environmental Protection.
1. Office of the Commissioner.
2. Division for Air Quality.
3. Division of Water.
4. Division of Environmental Program Support.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.

(c) Department for Natural Resources.
1. Office of the Commissioner.
2. Division of Mine Permits.

3. Division of Mine Reclamation and Enforcement.
4. Division of Abandoned Mine Lands.
5. Division of Oil and Gas.
6. Division of Mine Safety.
7. Division of Forestry.
8. Division of Conservation.
9. Office of the Reclamation Guaranty Fund.

(d) Office of Energy Policy.
1. Division of Energy Assistance.

(e) Office of Administrative Services.
1. Division of Human Resources Management.
2. Division of Financial Management.
3. Division of Information Services.

(4) Public Protection Cabinet.

(a) Office of the Secretary.
1. Office of Communications and Public Outreach.
2. Office of Legal Services.
a. Insurance Legal Division.
b. Charitable Gaming Legal Division.
c. Alcoholic Beverage Control Legal Division.
d. Housing, Buildings and Construction Legal Division.
e. Financial Institutions Legal Division.
f. Professional Licensing Legal Division.
3. Office of Administrative Hearings.
4. Office of Administrative Services.
a. Division of Human Resources.
b. Division of Fiscal Responsibility.

(b) Kentucky Claims Commission.

(c) Kentucky Boxing and Wrestling Commission.

(d) Kentucky Horse Racing Commission.
1. Office of Executive Director.
a. Division of Pari-mutuel Wagering and Compliance.
b. Division of Stewards.
c. Division of Licensing.
d. Division of Enforcement.
e. Division of Incentives and Development.
f. Division of Veterinary Services.

(e) Department of Alcoholic Beverage Control.
1. Division of Distilled Spirits.

2. Division of Malt Beverages.

3. Division of Enforcement.

(f) Department of Charitable Gaming.

1. Division of Licensing and Compliance.

2. Division of Enforcement.

(g) Department of Financial Institutions.

1. Division of Depository Institutions.

2. Division of Non-Depository Institutions.

3. Division of Securities.

(h) Department of Housing, Buildings and Construction.

1. Division of Fire Prevention.

2. Division of Plumbing.

3. Division of Heating, Ventilation, and Air Conditioning.

4. Division of Building Code Enforcement.

(i) Department of Insurance.

1. Division of Insurance Product Regulation.

2. Division of Administrative Services.

3. Division of Financial Standards and Examination.

4. Division of Agent Licensing.

5. Division of Insurance Fraud Investigation.

6. Division of Consumer Protection.

7. Division of Kentucky Access.

(j) Department of Professional Licensing.

1. Real Estate Authority.

(5) Labor Cabinet.

(a) Office of the Secretary.

1. Office of General Counsel.

a. Workplace Standards Legal Division.

b. Workers' Claims Legal Division.

2. Office of Administrative Services.

a. Division of Human Resources Management.

b. Division of Fiscal Management.

c. Division of Professional Development and Organizational Management.

d. Division of Information Technology and Support Services.

3. Office of Inspector General.

(b) Department of Workplace Standards.

1. Division of Apprenticeship.

2. Division of Occupational Safety and Health Compliance.

3. Division of Occupational Safety and Health Education and Training.

4. Division of Wages and Hours.

(c) Department of Workers' Claims.

1. Division of Workers' Compensation Funds.
2. Office of Administrative Law Judges.
3. Division of Claims Processing.
4. Division of Security and Compliance.
5. Division of Information Services.
6. Division of Specialist and Medical Services.
7. Workers' Compensation Board.

(d) Workers' Compensation Funding Commission.

(e) Occupational Safety and Health Standards Board.

(f) Apprenticeship and Training Council.

(g) State Labor Relations Board.

(h) Employers' Mutual Insurance Authority.

(i) Kentucky Occupational Safety and Health Review Commission.

(j) Workers' Compensation Nominating Committee.

(6) Transportation Cabinet:

(a) Department of Highways.

1. Office of Project Development.
2. Office of Project Delivery and Preservation.
3. Office of Highway Safety.
4. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Aviation.

(d) Department of Rural and Municipal Aid.

1. Office of Local Programs.
2. Office of Rural and Secondary Roads.

(e) Office of the Secretary.

1. Office of Public Affairs.
2. Office for Civil Rights and Small Business Development.
3. Office of Budget and Fiscal Management.
4. Office of Inspector General.

(f) Office of Support Services.

(g) Office of Transportation Delivery.

(h) Office of Audits.

(i) Office of Human Resource Management.

(j) Office of Information Technology.

(k) Office of Legal Services.

(7) Cabinet for Economic Development:

(a) Office of the Secretary.

1. Office of Legal Services.
2. Department for Business Development.
3. Department for Financial Services.
    a. Kentucky Economic Development Finance Authority.
    b. Finance and Personnel Division.
    c. IT and Resource Management Division.
    d. Compliance Division.
    e. Incentive Administration Division.
    f. Bluegrass State Skills Corporation.
4. Office of Marketing and Public Affairs.
    a. Communications Division.
    b. Graphics Design Division.
5. Office of Workforce, Community Development, and Research.
6. Office of Entrepreneurship.
    a. Commission on Small Business Advocacy.

(8) Cabinet for Health and Family Services:

(a) Office of the Secretary.

(b) Office of Health Policy.

(c) Office of Legal Services.

(d) Office of Inspector General.

(e) Office of Communications and Administrative Review.

(f) Office of the Ombudsman.

(g) Office of Finance and Budget.

(h) Office of Human Resource Management.

(i) Office of Administrative and Technology Services.

(j) Department for Public Health.

(k) Department for Medicaid Services.

(l) Department for Behavioral Health, Developmental and Intellectual Disabilities.

(m) Department for Aging and Independent Living.

(n) Department for Community Based Services.

(o) Department for Income Support.

(p) Department for Family Resource Centers and Volunteer Services.

(q) Office for Children with Special Health Care Needs.

(r) Governor's Office of Electronic Health Information.

(s) Office of Legislative and Regulatory Affairs.

(9) Finance and Administration Cabinet:

(a) Office of the Secretary.

(b) Office of the Inspector General.

(c) Office of Legislative and Intergovernmental Affairs.

(d) Office of General Counsel.

(e) Office of the Controller.

(f) Office of Administrative Services.

(g) Office of Policy and Audit.

(h) Department for Facilities and Support Services.

(i) Department of Revenue.

(j) Commonwealth Office of Technology.

(k) State Property and Buildings Commission.

(l) Office of Equal Employment Opportunity and Contract Compliance.

(m) Kentucky Employees Retirement Systems.

(n) Commonwealth Credit Union.

(o) State Investment Commission.

(p) Kentucky Housing Corporation.

(q) Kentucky Local Correctional Facilities Construction Authority.

(r) Kentucky Turnpike Authority.

(s) Historic Properties Advisory Commission.

(t) Kentucky Tobacco Settlement Trust Corporation.

(u) Kentucky Higher Education Assistance Authority.

(v) Kentucky River Authority.

(w) Kentucky Teachers' Retirement System Board of Trustees.

(x) Executive Branch Ethics Commission.

(10) Tourism, Arts and Heritage Cabinet:

(a) Kentucky Department of Tourism.

1. Division of Tourism Services.

2. Division of Marketing and Administration.

3. Division of Communications and Promotions.

(b) Kentucky Department of Parks.

1. Division of Information Technology.

2. Division of Human Resources.

3. Division of Financial Operations.

4. Division of Facilities Management.

5. Division of Facilities Maintenance.

6. Division of Customer Services.

7. Division of Recreation.

8. Division of Golf Courses.

9. Division of Food Services.

10. Division of Rangers.

11. Division of Resort Parks.

12. Division of Recreational Parks and Historic Sites.

(c) Department of Fish and Wildlife Resources.

1. Division of Law Enforcement.
2. Division of Administrative Services.
3. Division of Engineering, Infrastructure, and Technology.
4. Division of Fisheries.
5. Division of Information and Education.
6. Division of Wildlife.
7. Division of Marketing.

(d) Kentucky Horse Park.

1. Division of Support Services.
2. Division of Buildings and Grounds.
3. Division of Operational Services.

(e) Kentucky State Fair Board.

1. Office of Administrative and Information Technology Services.
2. Office of Human Resources and Access Control.
3. Division of Expositions.
4. Division of Kentucky Exposition Center Operations.
5. Division of Kentucky International Convention Center.
6. Division of Public Relations and Media.
7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.

(f) Office of the Secretary.

1. Office of Finance.
2. Office of Government Relations and Administration.
3. Office of Film and Tourism Development.

(g) Office of Legal Affairs.

(h) Office of Human Resources.

(i) Office of Public Affairs and Constituent Services.

(j) Office of Arts and Cultural Heritage.

(k) Kentucky African-American Heritage Commission.

(l) Kentucky Foundation for the Arts.

(m) Kentucky Humanities Council.

(n) Kentucky Heritage Council.

(o) Kentucky Arts Council.

(p) Kentucky Historical Society.

1. Division of Museums.

2. Division of Oral History and Educational Outreach.

3. Division of Research and Publications.

4. Division of Administration.

(q) Kentucky Center for the Arts.

1. Division of Governor's School for the Arts.

(r) Kentucky Artisans Center at Berea.

(s) Northern Kentucky Convention Center.

(t) Eastern Kentucky Exposition Center.

(11) Personnel Cabinet:

(a) Office of the Secretary.

(b) Department of Human Resources Administration.

(c) Office of Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Office of Administrative Services.

(f) Office of Legal Services.

(g) Governmental Services Center.

(h) Department of Employee Insurance.

(i) Office of Diversity, Equality, and Training.

(j) Office of Public Affairs.

III. Other departments headed by appointed officers:

(1) Council on Postsecondary Education.

(2) Department of Military Affairs.

(3) Department for Local Government.

(4) Kentucky Commission on Human Rights.

(5) Kentucky Commission on Women.

(6) Department of Veterans' Affairs.

(7) Kentucky Commission on Military Affairs.

(8) Office of Minority Empowerment.

(9) Governor's Council on Wellness and Physical Activity.

(10) Kentucky Communications Network Authority.

Signed by Governor March 26, 2019.

CHAPTER 155

(HB 139)

AN ACT relating to the creation of the Kentucky Financial Empowerment Commission.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 4 of this Act:

(a) "Commission" means the Kentucky Financial Empowerment Commission; and

(b) "Board" means the board of directors of the commission.

(2) The commission is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions for the purposes set forth in Sections 1 to 4 of this Act.

(3) The commission shall be governed by a board consisting of eleven (11) members as follows:

(a) The State Treasurer, or the Treasurer's designee;

(b) The commissioner of the Kentucky Department of Education or his or her designee;

(c) The commissioner of the Department of Financial Institutions or his or her designee;

(d) A representative from the Federal Reserve Bank of St. Louis – Louisville Branch;

(e) A representative from the Kentucky Credit Union League;

(f) A representative from the Kentucky Bankers Association; and

(g) Five (5) members appointed by the State Treasurer.

(4) (a) Members of the board not representing state agencies shall be appointed for a term of three (3) years.

(b) Members of the board not representing state agencies shall serve no more than two (2) consecutive three (3) year terms.

(c) Members of the board shall serve until their successors are appointed or until they are removed for cause.

(5) For initial appointments of the five (5) members appointed by the State Treasurer to the board, two (2) members shall be appointed for a term of four (4) years each, and three (3) members shall be appointed for terms of three (3) years each.

(6) If a vacancy of one (1) of the five (5) members appointed to the board by the State Treasurer occurs, the State Treasurer shall appoint a replacement who shall hold office during the remainder of the term vacated.

(7) (a) The State Treasurer may remove any of the five (5) members appointed by the State Treasurer in case of incompetency, neglect of duties, gross immorality, or malfeasance in office, and may upon removal declare the position vacant and appoint a person to fill the vacancy as provided in other cases of vacancy.

(b) 1. If a board member is removed under paragraph (a) of this subsection, he or she may appeal that action.

2. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) (a) The State Treasurer shall serve as chair of the board of the commission.

(b) At the first board meeting following initial appointment of all board members, the board shall elect a vice chair from its membership, and a vice chair shall be elected annually thereafter.

(2) The vice chair shall chair any meetings when directed to do so in writing by the State Treasurer.

(3) (a) A majority of the commission board members shall constitute a quorum for the purposes of conducting its business, exercising its powers, and for all other purposes.

(b) In determining whether a quorum exists, vacancies on the board shall be considered.

(4) (a) The board shall meet at least once a quarter.

(b) The board may meet at other times:

1. Upon call of the chair; or

2. At the written request of a majority of board members;

with a minimum of a seven (7) day notice.

(5) Board members shall receive no compensation for their services, but may be entitled to payment of reasonable and necessary expenses actually incurred in attending meetings, or discharging their official duties, subject to availability of funding.

(6) Any reimbursement of extraordinary travel expenses of board members, including but not limited to attending conventions and conferences, shall be reasonable and necessary and shall be approved by vote of a majority of the board during a meeting.

(7) If any board member has a direct or indirect interest in any organization, department, or agency with which the commission seeks to enter into a contract:

(a) The interest shall be disclosed and set forth in the minutes of the board; and

(b) The board member having the interest shall not participate in any action involving the organization in which he or she has the interest.

(8) (a) The Kentucky State Treasury:

1. Shall provide technical, clerical, and administrative assistance and support to the commission; and

2. May provide state personnel, property, and resources to assist the commission in its functions as set forth in Sections 1 to 4 of this Act.

(b) As funding is available, the commission may enter into a contract with the Kentucky State Treasury as may be proper and appropriate for the provision of these services and resources.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) All powers and duties conferred upon the commission in this chapter shall be exercised by the board, including but not limited to the following:

(a) To adopt bylaws and operate according to its bylaws;

(b) To enter into agreements, contracts, or other documents with any:

1. Federal, state, or local agency; or

2. Person, corporation, association, partnership, other organization, or entity;

necessary to accomplish the purposes set forth in Section 1 to 4 of this Act;

(c) 1. To develop and implement a plan toward increasing financial empowerment for all Kentuckians, specifically the following target groups:

a. State government personnel;

b. Kentuckians with disabilities;

c. Kentuckians below the poverty threshold as defined by federal guidelines;

d. K-12 students in Kentucky;

e. Military veterans and personnel who claim residence in Kentucky; and

f. Kentuckians who are retired or at retirement age.

2. Any curriculum shall be developed by local schools under direction provided by the Kentucky Board of Education related to financial literacy guidelines as promulgated in administrative regulations under KRS 158.1411;

(d) To monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the commission's objectives;

(e) To accept for inclusion in the fund appropriations, grants, revenue sharing, devises, gifts, bequests, donations, federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto;

(f) To incorporate a nonprofit organization pursuant to KRS Chapter 273 which qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, for the purposes of receiving tax-deductible gifts, donations, and bequests; and

(g) 1. To employ a full-time executive director, who shall hold office at the pleasure of the board, and any employees necessary to fulfill the duties of the commission.

2. The executive director may be terminated by a vote of seven (7) members of the board.

3. The executive director shall:

a. Act under the direction of the board;

b. Hire necessary staff to assist in performing the duties of the commission;

c. Carry out the policy and program directives of the commission;

d. Be responsible for the day-to-day operations of the commission;

e. Establish appropriate organizational structures and personnel policies;

f. Prepare annual reports on the commission's activities;

g. Prepare budgets; and

h. Perform all other duties as directed by the commission or assigned by law.

4. The executive director and any employees of the commission shall not participate as members of the Kentucky Retirement Systems.

(2) Nothing in this section shall be construed to require the Kentucky Department of Education or any particular school district to utilize any resource or provider that enters into a contractual relationship with the commission.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) (a) The commission shall annually procure a financial statement audit of all funds and accounts within its control.

(b) The audit shall be conducted in accordance with generally accepted government auditing standards.

(2) (a) The commission shall not enter into any contract with a certified public accountant for an audit unless the Auditor of Public Accounts has:

1. Declined in writing to perform the audit; or

2. Failed to respond within fifteen (15) days of receipt of a written request for an audit.

(b) If the Auditor of Public Accounts performs the annual audit required in subsection (1) of this section, the Auditor of Public Accounts shall maintain a record of all expenses incurred, including time worked on the audit, and these expenses shall be charged to the commission.

(c) If the Auditor of Public Accounts does not perform the annual audit, any contract with a certified public accountant shall specify the following:

1. The certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts and to the Legislative Research Commission; and

2. The Auditor of Public Accounts shall have the right to review the certified public accountant's work papers.

Signed by Governor March 26, 2019.

CHAPTER 156

(HB 220)

AN ACT relating to the supervision of insurance companies.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in Section 2 of this Act;

(b) "Lead state regulator" means the state insurance regulator of the state that is the lead state for an insurance group, as determined by procedures outlined in the National Association of Insurance Commissioner's Financial Analysis Handbook, as amended; and

(c) "CGAD" means Corporate Governance Annual Disclosure.

(2) This section shall not be construed to:

(a) Prescribe or impose corporate governance standards or internal procedures beyond those required under applicable state corporate law; or

(b) Limit the authority of the commissioner or the department, or the rights or obligations of third parties, under this chapter.

(3) (a) By June 1 of each calendar year, an insurer shall submit a CGAD to the department, unless the insurer is a member of an insurance group, in which case either the insurer, or the insurance group of which the insurer is a member, shall submit a CGAD to the lead state regulator for the insurance group.

(b) 1. An insurer or insurance group not required to submit a CGAD under paragraph (a) of this subsection shall submit a CGAD to the department if requested by the commissioner, but not more than once per calendar year.

2. The insurer or insurance group required to provide a CGAD under this paragraph shall notify the department of the CGAD's proposed submission date within thirty (30) days of the commissioner's request.

(4) (a) Subject to paragraph (b) of this subsection, an insurer or insurance group shall have discretion in:

1. Determining the appropriate format of the CGAD; and

2. Communicating the information required by this section in the CGAD.

(b) Notwithstanding paragraph (a) of this subsection, an insurer or insurance group shall:

1. Provide sufficient material and relevant information in the CGAD to enable the commissioner to understand the corporate governance structure, policies, and practices used by the insurer or insurance group;

2. Provide any additional information requested by the commissioner that the commissioner deems necessary to comply with the requirements of this section; and

3. Ensure that the CGAD is prepared in compliance with all requirements of this section.

(5) (a) Each CGAD submitted to the department shall:

1. Contain the signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting that, to the best of his or her belief and knowledge, the insurer or insurance group has:

a. Implemented the corporate governance practices disclosed in the CGAD; and

b. Provided a copy of the CGAD to the insurer's or insurance group's board of directors or to the appropriate committee of the board;

2. Be as descriptive as possible;

3. Include any attachments or example documents used in the governance process; and

4. Describe the following:

a. The corporate governance framework and structure of the insurer or insurance group;

b. The policies and practices:

i. Of the insurer's or insurance group's most senior governing entity and its significant committees; and

ii. For directing the insurer's or insurance group's senior management; and

c. The processes by which the insurer's or insurance group's board, its committees, and senior management ensure an appropriate amount of oversight to the critical risk areas that have an impact on the insurer's business activities.

(b) 1. An insurer or insurance group may comply with this subsection by cross-referencing other existing relevant and applicable documents, if the documents contain information substantially similar to the information required by this subsection.

2. For purposes of this paragraph, "other existing relevant and applicable documents" include but are not limited to:

a. The ORSA Summary Report as defined in KRS 304.3-600;

b. The filings required under KRS 304.37-020;

c. Securities and Exchange Commission proxy statements; and

d. Documents filed in compliance with other state, federal, or international reporting requirements.

3. An insurer or insurance group that cross-references documents under this paragraph shall:

a. Clearly identify and reference the specific location of the documents; and

b. Include the referenced documents as an attachment to the CGAD, unless the documents have already been filed with, or made available to, the department.

(6) For purposes of completing the CGAD:

(a) An insurer or insurance group may:

1. Report information at one (1) of the following levels, depending upon the structure of its corporate governance system:

a. The ultimate controlling parent level;

b. An intermediate holding company level; or

c. The individual legal entity level; and

2. Make disclosures at the level:

a. Used to determine the risk appetite of the insurer or insurance group;

b. At which the earnings, capital, liquidity, operations, and reputation of the insurer are collectively overseen and the supervision of those factors is coordinated and exercised; or

c. At which legal liability for failure of general corporate governance duties is placed; and

(b) An insurer or insurance group shall:

1. Indicate the reporting level used;

2. If the reporting level was based on the criteria set forth in paragraph (a)2. of this subsection, indicate the criteria used to determine the reporting level; and

3. Explain any subsequent changes in reporting level.

(7) An insurer or insurance group shall maintain documentation and support for all information provided in the CGAD, which shall be made available to the commissioner upon examination or upon request.

(8) For each year following the initial filing of a CGAD with the department, the insurer or insurance group shall comply with this section by filing an amended version of the CGAD previously filed. The amended CGAD shall indicate any changes that have been made from the previously filed CGAD. If no changes were made in the information or activities reported by the insurer or insurance group since the previous filing, the insurer or insurance group shall so indicate.

(9) Subject to subsection (10) of this section:

(a) Filings, documents, and information in the possession or control of the department that are obtained by, created by, or disclosed to the commissioner or any other person under this section are recognized as being proprietary and containing trade secrets, and shall be confidential by law and privileged. The filings, documents, and information shall not be subject to:

1. Disclosure or production by the department under:

a. The Kentucky Open Records Act, KRS 61.870 to 61.884; or

b. A subpoena; or

2. Discovery or admission into evidence in any private civil action; and

(b) The following persons shall not be permitted or required to testify in any private civil action regarding the filings, documents, or information referenced in paragraph (a) of this subsection:

1. The commissioner or any person who received filings, documents, or information while acting under the authority of the commissioner; and

2. Any person with whom filings, documents, or information are shared under subsection (10) of this section.

(10) The filings, documents, and information subject to subsection (9) of this section may be:

(a) Used by the commissioner in furtherance of any regulatory or legal action brought against an insurer as part of the commissioner's official duties; and

(b) Shared, upon request, by the commissioner with the following, if the recipient agrees in writing to maintain the confidential and privileged status of the filings, documents, or information and has verified in writing the recipient's legal authority to do so:

1. Other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in Section 2 of this Act;

2. The National Association of Insurance Commissioners; and

3. Third-party consultants retained under subsection (14) of this section.

(11) (a) The commissioner may receive CGAD filings, related documents, or governance-related information from the following:

1. Other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in Section 2 of this Act; and

2. The National Association of Insurance Commissioners.

(b) Any filing, document, or information received under this subsection, with notice that the filing, document, or information is confidential or privileged under the laws of the jurisdiction that is the source of the filing, document, or information, shall be confidential by law and privileged in accordance with subsection (9) of this section.

(12) The sharing of documents or information by the commissioner under this section shall not constitute a delegation of regulatory authority or rulemaking. The commissioner is solely responsible for the administration, execution, and enforcement of this subtitle.

(13) A waiver of any applicable privilege or claim of confidentiality in the filings, documents, or information received or provided under this section shall not occur as a result of:

(a) Disclosure to the commissioner or any person acting under authority of the commissioner; or

(b) Sharing as authorized in this section.

(14) (a) The commissioner may retain, at the insurer's or insurance group's expense, third-party consultants and the National Association of Insurance Commissioners for the purpose of assisting the commissioner in the performance of his or her regulatory duties under this section, including but not limited to understanding the insurer's or insurance group's:

1. Risk management framework;

2. Own Risk and Solvency Assessment (ORSA) and ORSA Summary Report, as those terms are defined in KRS 304.3-600; and

3. CGAD filing.

(b) As part of the retention process, each party retained by the commissioner shall agree, in writing, to the following:

1. Adhere to the same confidentiality standards and requirements as the commissioner;

2. Comply with specific procedures and protocols for maintaining the confidentiality and security of information shared with the retained party;

3. Comply with specific procedures and protocols for sharing by the National Association of Insurance Commissioners only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall:

a. Specify that the recipient state agrees to maintain the confidentiality and privileged status of the information received; and

b. Provide verification that the recipient state has legal authority to maintain confidentiality;

4. Recognize that:

a. Ownership of information shared with the retained party shall remain with the department; and

b. The retained party's use of shared information is subject to the direction of the commissioner;

5. Verify and give notice to the insurer that the retained party is free of any conflict of interest;

6. Monitor compliance with applicable confidentiality and conflict of interest standards in accordance with a system of internal procedures;

7. Not store information shared with the retained party in a permanent database after the underlying analysis is completed;

8. Provide prompt notice to the commissioner and the insurer or insurance group of any subpoena or request received by the retained party for the insurer's or insurance group's filings, documents, or information; and

9. Consent to intervention by an insurer in any judicial or administrative action in which the retained party may be required to disclose confidential information about the insurer that was shared with the retained party under this section.

➔Section 2. KRS 304.37-010 is amended to read as follows:

As used in this subtitle,~~[the following terms shall have the respective meanings set forth,]~~ unless the context ***requires***~~[shall]~~ otherwise~~[require]~~:

(1) ***"Affiliate" or person "affiliated" with a specific person means a person that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;***

(2) ~~[The term]~~"Commissioner" ***means***~~[shall mean]~~ the commissioner of insurance or the Department of Insurance, as appropriate;

(3) (a) "Control," "controlling," "controlled by," and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a loan contract or

commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(b) Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by KRS 304.37-020(12) that control does not exist in fact. The commissioner may determine, after forwarding all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

(4) "Enterprise risk" means any activity, circumstance, event, or series of events involving one (1) or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including but not limited to anything that would cause the insurer's risk-based capital to fall into company action level as set forth in KRS 304.3-125 and administrative regulations promulgated thereunder or would cause the insurer to be in hazardous financial condition in accordance with KRS 304.2-065;

(5) "Groupwide supervisor" means the regulatory official authorized to engage in conducting and coordinating groupwide supervision activities in accordance with Section 3 of this Act;

(6) "Insurance holding company system" means two (2) or more affiliated persons, one (1) or more of which is an insurer;

(7)~~[(2)]~~ "Insurer" includes every person engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts of insurance, except it shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(8) "Internationally active insurance group" means an insurance holding company system that:

(a) Includes an insurer registered under KRS 304.37-020; and

(b) Meets the following criteria:

1. Has premiums written in at least three (3) countries;

2. Has gross premiums written outside of the United States that are at least ten percent (10%) of the system's total gross written premiums; and

3. Based on a three (3) year rolling average:

a. Has total assets that are at least fifty billion dollars ($50,000,000,000); or

b. Has total gross written premiums that are at least ten billion dollars ($10,000,000,000).

~~[(3) An "Insurance holding company system" consists of two (2) or more affiliated persons, one (1) or more of which is an insurer;~~

~~(4) An "affiliate," or person "affiliated" with a specific person, is a person that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;]~~

(9)~~[(5)]~~ ~~[A]~~"Person" ***means***~~[is]~~ an individual, a corporation, a partnership, an association, a joint stock company, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert, but shall not include any bank in its fiduciary capacity or securities broker performing no more than the usual and customary broker's function;

(10)~~[(6)]~~ ~~[A]~~"Subsidiary" of a specified person ***means***~~[is]~~ an affiliate controlled by the person directly or indirectly through one (1) or more intermediaries;

(11) "Supervisory college" means a forum for cooperation and communication between the involved supervisors established for the fundamental purpose of facilitating the effectiveness of supervision of entities which belong to an insurance group and facilitating both the supervision of the group as a whole on a groupwide basis and improving the legal entity supervision of the entities within the insurance group; and

(12)~~[(7)]~~ ~~[The term]~~"Voting security" ***includes***~~[shall include]~~ any security convertible into or evidencing a right to acquire a voting security~~[;~~

~~(8) The terms "control," "controlling," "controlled by," and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a loan contract or commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by KRS 304.37-020(12) that control does not exist in fact. The commissioner may determine, after forwarding all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;~~

~~(9) "Enterprise risk" means any activity, circumstance, event, or series of events involving one (1) or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse affect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in KRS 304.3-125 and administrative regulations promulgated thereunder or would cause the insurer to be in hazardous financial condition in accordance with KRS 304.2-065; and~~

~~(10) "Supervisory college" means a forum for cooperation and communication between the involved supervisors established for the fundamental purpose of facilitating the effectiveness of supervision of entities which belong to an insurance group and facilitating both the supervision of the group as a whole on a groupwide basis and improving the legal entity supervision of the entities within the insurance group~~].

➔SECTION 3. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) The commissioner may:

1. Act as the groupwide supervisor for any internationally active insurance group in accordance with this section; or

2. Acknowledge another regulatory official as the groupwide supervisor, if the internationally active insurance group:

a. Does not have substantial insurance operations in the United States;

b. Has substantial insurance operations in the United States, but not in this state; or

c. Has substantial insurance operations in the United States and in this state, but the commissioner determines under this section that the other regulatory official is the appropriate groupwide supervisor.

(b) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request the commissioner to make a determination or acknowledgment as to a groupwide supervisor under this section.

(2) (a) In cooperation with other state, federal, and international regulatory agencies, the commissioner shall identify a single groupwide supervisor for an internationally active insurance group.

(b) For an internationally active insurance group that conducts substantial insurance operations in this state, the commissioner may:

1. Determine that he or she is the appropriate groupwide supervisor; or

2. Acknowledge a regulatory official from another jurisdiction as the appropriate groupwide supervisor.

(c) In making a determination or acknowledgment of a groupwide supervisor, the commissioner shall consider the following factors:

1. With regard to the internationally active insurance group:

a. The place of domicile of:

i. The insurers within the group that hold the largest share of the group's written premiums, assets, or liabilities; and

ii. The top-tiered insurer or insurers in the insurance holding company system of the group; and

b. The location of the executive officers or largest operational officers of the group; and

2. Whether another regulatory official acting or seeking to act as the groupwide supervisor:

a. Acts under a regulatory system that the commissioner determines to be:

i. Substantially similar to the system of regulation provided under the laws of this state; or

ii. Otherwise sufficient in terms of providing for groupwide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and

b. Provides the commissioner with reasonably reciprocal recognition and cooperation.

(d) If the commissioner is identified under this section as the groupwide supervisor, he or she may determine that it is appropriate to acknowledge another supervisor to serve as the groupwide supervisor. This acknowledgement shall be made:

1. After consideration of the factors set forth in paragraph (c) of this subsection;

2. In cooperation with and subject to the acknowledgement of other regulatory officials involved with supervision of members of the internationally active insurance group; and

3. In consultation with the internationally active insurance group.

(3) (a) Notwithstanding any other provision of law, when another regulatory official is acting as the groupwide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the groupwide supervisor until there is a material change in the internationally active insurance group that results in:

1. Insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities; or

2. This state being the place of domicile of the top-tiered insurer or insurers in the insurance company holding system of the group.

(b) In the event of a material change under paragraph (a) of this subsection, the commissioner shall make a determination or acknowledgement as to the appropriate groupwide supervisor in accordance with subsection (2) of this section.

(4) (a) Pursuant to KRS 304.37-040, the commissioner may collect from any insurer registered under KRS 304.37-020 all information necessary to make a determination or acknowledgment of groupwide supervisor under this section.

(b) Prior to making a determination that he or she is the appropriate groupwide supervisor for an internationally active insurance group, the commissioner shall notify the insurer registered under KRS 304.37-020 and the ultimate controlling person within the group.

(c) The internationally active insurance group shall have at least thirty (30) days to provide the commissioner with additional information pertinent to the pending determination.

(d) The commissioner shall publish the identity of internationally active insurance groups that the commissioner has determined are subject to groupwide supervision by him or her.

(5) The commissioner may engage in any of following activities when acting as a groupwide supervisor of an internationally active insurance group:

(a) Assess the enterprise risks within the group to ensure that:

1. The material financial condition and liquidity risks to the members of the group engaged in the business of insurance are identified by management; and

2. Reasonable and effective mitigation measures are in place;

(b) Request from any member of the group subject to the commissioner's supervision information necessary and appropriate to assess enterprise risk, including but not limited to information about the group member's:

1. Governance, risk assessment, and management;

2. Capital adequacy; and

3. Material intercompany transactions;

(c) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the group are domiciled, compel development and implementation of reasonable measures designed to ensure that the group is able to timely recognize and mitigate enterprise risks to group members that are engaged in the business of insurance;

(d) Communicate with other state, federal, and international regulatory agencies for members of the group and share relevant information, subject to the confidentiality provisions of Section 4 of this Act, through supervisory colleges as set forth in KRS 304.37-055 or otherwise;

(e) Enter into agreements with or obtain documentation from any insurer registered under KRS 304.37-020, any member of the group, and any other state, federal, and international regulatory agencies for group members, providing the basis for or otherwise clarifying the commissioner's role as groupwide supervisor, including provisions for resolving disputes with other regulatory officials. These agreements or documentation shall not serve or be admissible as evidence in any proceeding seeking to establish that an insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business or is otherwise subject to the personal jurisdiction of a court in this state; and

(f) Other groupwide supervision activities, consistent with the authority and purposes set forth in this section, considered necessary by the commissioner.

(6) If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the National Association of Insurance Commissioners is the appropriate groupwide supervisor, the commissioner may reasonably cooperate, through supervisory colleges or otherwise, with groupwide supervision undertaken by the groupwide supervisor if:

(a) The commissioner's cooperation is in compliance with the laws of this state; and

(b) The regulatory official acknowledged as the groupwide supervisor also recognizes and cooperates with the commissioner's activities as a groupwide supervisor for other internationally active insurance groups where applicable. If recognition and cooperation is not reasonably reciprocal, the commissioner may refuse recognition and cooperation.

(7) The commissioner may enter into agreements with or obtain documentation from:

(a) Any insurer registered under KRS 304.37-020, including any affiliate of the insurer; and

(b) Other state, federal, and international regulatory agencies for members of an internationally active insurance group, if the regulatory officials for the state, federal, or international agencies provide the basis for or otherwise clarify the officials' roles as groupwide supervisors for the group.

(8) An insurer registered under KRS 304.37-020 and subject to this section shall be liable for and pay the reasonable expenses of the commissioner's participation in the administration of this section, including:

(a) The engagement of attorneys, actuaries, and any other professionals; and

(b) All reasonable travel expenses.

➔Section 4. KRS 304.37-050 is amended to read as follows:

(1) (a) ***Subject to paragraph (b) of this subsection,*** all documents, materials, or other information in the possession or control of the department that are obtained by or disclosed to the commissioner ***or*** ~~[by]~~ any other person in the course of an examination, analysis, or investigation made ***under*** ~~[pursuant to]~~ KRS 304.37-040 and all information reported ***or provided to the department under*** ~~[pursuant to]~~ KRS 304.37-020***, KRS 304.37-030, and Section 3 of this Act***, shall:

1. Be confidential by law and privileged; and

2. Not be subject to:

a. The Kentucky Open Records Act, KRS 61.872 to 61.884;

b Subpoena; ***or***

c. Discovery~~[;]~~ or~~[~~

~~d.]~~ admission ***into*** ~~[in]~~ evidence in any private civil action.

(b) The commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(c) The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared, pursuant to this subtitle, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or other information subject to subsection (1) of this section.

(3) The commissioner:

(a) May share documents, materials, or other information, including confidential and privileged documents, materials, or other information subject to subsection (1) of this section, with other state, federal, and international regulatory agencies, the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, including members of any supervisory college described in KRS 304.37-055, if the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information, and has verified in writing the legal authority to maintain confidentiality;

(b) May only share confidential and privileged documents, materials, or other information reported pursuant to KRS 304.37-020(13), notwithstanding paragraph (a) of this subsection, with commissioners of states having statutes or regulations substantially similar to subsection (1) of this section, and who have agreed in writing not to disclose such information;

(c) 1. May receive documents, materials, or other information, including confidential and privileged documents, materials, or other information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdiction; and

2. Shall maintain as confidential or privileged any documents, materials, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or other information; and

(d) Shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this subtitle, consistent with this subsection that:

1. Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries, pursuant to this subtitle, including procedures and protocols for sharing the National Association of Insurance Commissioners with other state, federal, or international regulators;

2. Specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries, pursuant to this subsection, remains with the commissioner, and the National Association of Insurance Commissioners' use of the information is subject to the direction of the commissioner;

3. Require prompt notice be given to an insurer whose confidential information, in the possession of the National Association of Insurance Commissioners, pursuant to this subtitle, is subject to a request or subpoena to the National Association of Insurance Commissioners, pursuant to this subtitle, for disclosure or production; and

4. Require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be

required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries.

(4) The sharing of information by the commissioner shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for administration, execution, and enforcement of this subtitle.

(5) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(6) Documents, materials, or information in the possession or control of the National Association of Insurance Commissioners and its affiliates and subsidiaries, pursuant to this subtitle, shall:

(a) Be confidential by law and privileged; and

(b) Not be subject to:

1. The Kentucky Open Records Act, KRS 61.872 to 61.884;

2. Subpoena; ***or***

3. Discovery~~[,]~~ or~~[~~

~~4.]~~ admission ***into***~~[in]~~ evidence in any private civil action.

➔Section 5. KRS 304.3-090 is amended to read as follows:

No foreign insurer shall be authorized to transact insurance in Kentucky, which has not been issuing its own policies as an authorized insurer for at least three (3) years in its state or country of domicile, unless the insurer is otherwise qualified for a certificate of authority under this code and is:

(1) The wholly owned subsidiary as defined in KRS 304.37-010~~[(6)]~~ of an insurer which is already an authorized insurer in Kentucky; or

(2) The successor in interest through statutory merger or statutory consolidation, or through bulk reinsurance of substantially all of the insurance risks in this state, of an authorized insurer; or

(3) An insurer organized solely for the purpose of insuring against earthquake, flood, nuclear radiation, war or other special hazards to property or liability for which, in the opinion of the commissioner, adequate provision is not made by insurers already authorized in this state.

➔Section 6. KRS 304.3-400 is amended to read as follows:

As used in KRS 304.3-400 to 304.3-430, unless the context requires otherwise:

(1) "Accredited state" means a state in which the insurance regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners;

(2) "Control" or "controlled" has the meaning set forth in KRS 304.37-010~~[(8)]~~;

(3) "Controlled insurer" means an authorized insurer which is controlled, directly or indirectly, by a producer;

(4) "Controlling producer" means a producer who directly or indirectly, controls an insurer;

(5) "Authorized insurer" or "insurer" means an insurer holding a certificate of authority from the commissioner to transact property or casualty insurance business in Kentucky. The following, among others, are not authorized insurers for the purposes of KRS 304.3-400 to 304.3-430:

(a) All residual market mechanisms and joint underwriting authorities or associations; and

(b) All captive insurers, other than risk retention groups as defined in 15 U.S.C. secs. 3901 et seq. and 42 U.S.C. sec. 9671, including insurers owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members and their affiliates; and

(6) "Producer" means a person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting,

negotiating, or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association, or corporation.

➔Section 7. KRS 304.24-290 is amended to read as follows:

The insurer shall establish and maintain in this state its principal office and place of business. The insurer's principal records shall be kept either at its principal office or, with the approval of the commissioner, at its place of business in any other state where it, or its affiliate as defined in~~[subsection (4) of]~~ KRS 304.37-010, is engaged in the business of entering into contracts of insurance.

➔Section 8. KRS 304.37-130 is amended to read as follows:

(1) The following definitions shall apply for the purposes of this section only:

(a) "Acquisition" means any agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, such as the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers; and

(b) An "involved insurer" includes an insurer which either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

(2) (a) This section applies to any acquisition in which there is a change of control of an insurer authorized to do business in Kentucky, except as set forth in paragraph (b) of this subsection.

(b) This section shall not apply to the following:

1. An acquisition subject to approval or disapproval of the commissioner pursuant to KRS 304.37-120;

2. A purchase of securities solely for the investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in Kentucky. If a purchase of securities results in a presumption of control under KRS 304.37-010***(3)***~~[(8)]~~, it is not solely for investment purposes unless the insurance regulatory official of the insurer's state of domicile accepts a disclaimer of control, or affirmatively finds that control does not exist, and the disclaimer action or affirmative finding is communicated by the domiciliary insurance regulatory official to the commissioners;

3. If the acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with subsection (3)(a) of this section thirty (30) days prior to the proposed effective date of the acquisition. However, the acquisition notification shall not be required for exclusion from this section if the acquisition would otherwise be excluded from this section by any other subparagraph of this paragraph;

4. The acquisition of already affiliated persons;

5. An acquisition if, as an immediate result of the acquisition:

a. The combined market share of the involved insurers would not exceed five percent (5%) of the total market;

b. There would be no increase in any market share; or

c. The combined market share of the involved insurers would not exceed twelve percent (12%) of the total market; and the market share would not increase by more than two percent (2%) of the total market.

For the purpose of this subparagraph (b)5., a market means direct written insurance premium in Kentucky for a line of business as contained in the annual statement required to be filed by insurers authorized to do business in Kentucky;

6. An acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business; and

7. An acquisition of an insurer whose domiciliary insurance regulatory official affirmatively finds that the insurer is in failing condition, there is lack of feasible alternative to improving the condition, the public benefits of improving the insurer's condition through the acquisition exceed

the public benefits that would arise from not lessening competition, and the findings are communicated by the domiciliary insurance regulatory official to the commissioner.

(3) An acquisition covered by subsection (2) of this section may be subject to an order pursuant to subsection (5) of this section or KRS 304.37-010 unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification. The commissioner shall give confidential treatment to information submitted under this subsection in the same manner as provided in KRS 304.37-050.

(a) The preacquisition notification shall be in the form and contain the information prescribed by the National Association of Insurance Commissioners relating to those markets which, under subsection (2)(b)5. of this section, cause the acquisition not to be exempted from the provisions of this section. The commissioner may require additional material and information the commissioner deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection (4) of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in Kentucky accompanied by a summary of the education and experience of the economist indicating his or her ability to render an informed opinion.

(b) The waiting period required shall begin on the date of receipt by the commissioner of a preacquisition notification and shall end on the earlier of the thirtieth day after the date of receipt, or termination of the waiting period by the commissioner. Prior to the end of the waiting period, the commissioner may, on a one-time basis, require the submission of additional needed information relevant to the proposed acquisition; if the submission is required, the waiting period shall end on the earlier of the thirtieth day after receipt of the additional information by the commissioner or termination of the waiting period by the commissioner.

(4) (a) The commissioner may enter an order under subsection (5)(a) of this section with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be to lessen substantially competition in any line of insurance in Kentucky or tend to create a monopoly, or if the insurer fails to file adequate information in compliance with subsection (3) of this section.

(b) In determining whether a proposed acquisition would violate the competitive standard of paragraph (a) of this subsection, the commissioner shall consider the following:

1. Any acquisition covered under subsection (2) of this section involving two (2) or more insurers competing in the same market is prima facie evidence of violation of the competitive standards:

a. If the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more;

or

b. If the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more.

A highly concentrated market means one in which the share of the four (4) largest insurers is seventy-five percent (75%) or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two (2) insurers are involved, exceeding the total of the two (2) columns in the table is prima facie evidence of

violation of the competitive standard in paragraph (a) of this subsection. For the purpose of this subparagraph, the insurer with the largest share of the market shall be deemed to be insurer A;

2. There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two (2) largest to the eight (8) largest, has increased by seven percent (7%) or more of the market over a period of time extending from any base year five (5) to ten (10) years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subsection (2) of this section involving two (2) or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in paragraph (a) of this subsection if:

   a. There is a significant trend toward increased concentration in the market;

   b. One of the insurers involved is one of the insurers in a grouping of the large insurers showing the requisite increase in the market share; and

   c. Another involved insurer's market is two percent (2%) or more;

3. For the purposes of subsection (4)(b) of this section:

   a. The term "insurer" includes any company or group of companies under common management, ownership or control;

   b. The term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to factors such as the definitions or guidelines, if any, promulgated by the National Association of Insurance Commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, the line being that used in the annual statement required to be filed by insurers doing business in Kentucky, and the relevant geographical market is assumed to be Kentucky; and

   c. The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner; and

4. Even though an acquisition is not prima facie violative of the competitive standard under paragraph (b) of this subsection, the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under paragraph (b) of this subsection, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making this determination shall be such factors as market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry into and exit from the market.

(c) An order shall not be entered under subsection (5)(a) of this section if:

1. The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from the economies exceed the public benefits which would arise from not lessening competition; or

2. The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits which would arise from not lessening competition.

(5) (a) If an acquisition violates the standards of this section, the commissioner may enter an order:

1. Requiring an involved insurer to cease and desist from doing business in Kentucky with respect to the line or lines of insurance involved in the violation; or

2. Denying the application of an acquired or acquiring insurer for a certificate of authority to do business in Kentucky.

(b) The order referred to in paragraph (a) of this subsection shall be entered pursuant to a hearing held under Subtitle 2 of this chapter.

Signed by Governor March 26, 2019.

CHAPTER 157

(HB 218)

AN ACT relating to dialysate solutions and devices.

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

➔Section 1. KRS 315.0351 is amended to read as follows:

(1) Except as provided in subsection (2) of this section:

(a) ~~[(1)]~~ Every person or pharmacy located outside this Commonwealth which does business, physically or by means of the Internet, facsimile, phone, mail, or any other means, inside this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035***;*** ~~[.]~~

(b) ~~[(2)]~~ Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall disclose to the board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to residents of the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer, or pharmacist***;*** ~~[.]~~

(c) ~~[(3)]~~ Every out-of-state pharmacy granted an out-of-state pharmacy permit shall comply with all statutorily-authorized directions and requests for information from any regulatory agency of the Commonwealth and from the board in accordance with the provisions of this section. The out-of-state pharmacy shall maintain at all times a valid unexpired permit, license, or registration to conduct the pharmacy in compliance with the laws of the jurisdiction in which it is a resident. As a prerequisite to seeking a permit from the Kentucky Board of Pharmacy, the out-of-state pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the jurisdiction in which it is located. Thereafter, the out-of-state pharmacy granted a permit shall submit to the Kentucky Board of Pharmacy a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the jurisdiction in which it is located***;*** ~~[.]~~

(d) ~~[(4)]~~ Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed***;*** ~~[.]~~

(e) ~~[(5)]~~ Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the out-of-state pharmacy***;*** ~~[.]~~

(f) ~~[(6)]~~ Each out-of-state pharmacy shall, during its regular hours of operation, but not less than six (6) days per week and for a minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state pharmacy and available to both the patient and each licensed and practicing in-state pharmacist for the purpose of facilitating communication between the patient and the Kentucky pharmacist with access to the patient's prescription records. A toll-free number shall be placed on a label affixed to each container of drugs dispensed to patients within the Commonwealth***;*** ~~[.]~~

(g) ~~[(7)]~~ Each out-of-state pharmacy shall have a pharmacist in charge who is licensed to engage in the practice of pharmacy by the Commonwealth that shall be responsible for compliance by the pharmacy with the provisions of this section ***and for the distribution and sale of dialysate solutions and devices pursuant to subsection (2) of this section;*** ~~[.]~~

(h) ~~[(8)]~~ Each out-of-state pharmacy shall comply with KRS 218A.202***;*** ~~[.]~~

(i) ~~[(9)]~~ Any out-of-state pharmacy that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited by use of the Internet, including but not limited to electronic mail, shall receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy

certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar accreditation, shall be maintained and remain current***;*** ~~[.]~~

(j) ~~[(10)]~~ Any out-of-state pharmacy doing business in the Commonwealth of Kentucky shall certify the percentage of its annual business conducted via the Internet and electronic mail and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal***;*** ~~[.]~~

(k) ~~[(11)]~~ Any pharmacy doing business within the Commonwealth of Kentucky shall use the address on file with the Kentucky Board of Pharmacy as the return address on the labels of any package shipped into or within the Commonwealth. The return address shall be placed on the package in a clear and prominent manner***; and*** ~~[.]~~

(l) ~~[(12)]~~ The Kentucky Board of Pharmacy may waive the permit requirements of this chapter for an out-of-state pharmacy that only does business within the Commonwealth of Kentucky in limited transactions.

(2) (a) Only subsection (1)(g) of this section shall apply to the sale or distribution of dialysate solutions or devices necessary to perform home peritoneal kidney dialysis to patients with end-stage renal disease, if:

1. The dialysate solutions or devices are approved or cleared by the federal Food and Drug Administration, as required by federal law;

2. The dialysate solutions or devices are lawfully held by a manufacturer or manufacturer's agent that is properly registered with or licensed by the board as a manufacturer, wholesale distributer, or third-party logistics provider under this chapter;

3. The dialysate solutions or devices are held and delivered in their original, sealed packaging from an Food and Drug Administration approved manufacturing facility;

4. The dialysate solutions or devices are only delivered upon receipt of a physician's prescription by a Kentucky licensed pharmacy and the transmittal of an order from the Kentucky licensed pharmacy to the manufacturer or manufacturer's agent; and

5. The manufacturer or manufacturer's agent delivers the dialysate solutions or devices directly to:

a. A patient with end-stage renal disease or the patient's designee for the patient's self-administration of dialysis therapy; or

b. A health care provider or institution for administration or delivery of dialysis therapy to a patient with end-stage renal disease.

(b) 1. A manufacturer or manufacturer's agent who sells or distributes dialysate solutions or devices under this subsection shall employ or contract with a pharmacist who is licensed to engage in the practice of pharmacy by the Commonwealth to conduct a retrospective audit on ten percent (10%) of the orders processed by that manufacturer or manufacturer's agent each month.

2. On or before February 1 of each year, an annual summary of the monthly audits shall be prepared and submitted to the board, in the form prescribed by the board.

3. On or before June 1 of each year, the board shall compile the summaries of monthly audits into a single report and submit that report to the Interim Joint Committee on Health and Welfare and Family Services.

(c) Prescriptions and records of delivery for dialysate solutions or devices sold or distributed under this subsection shall be maintained by the manufacturer or manufacturer's agent for a minimum of two (2) years and shall be made available to the board upon request.

(d) As used in this subsection, "dialysate solutions" means dextrose or icodextrin when used to perform home peritoneal kidney dialysis.

(e) The Kentucky Board of Pharmacy will retain oversight of the distribution of dialysate solutions and devices under this section.

➔Section 2. KRS 315.040 is amended to read as follows:

(1) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale of nonprescription drugs in their original packages by any retailer. No rule or regulation shall be adopted by the Board of Pharmacy under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist.

(2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent the physician from keeping any drug or medicine that he or she may need in his or her practice, from compounding the physician's own medications, or from dispensing or supplying to patients any article that seems proper to the physician.

(3) Nothing in this chapter pertaining to the use of collaborative care agreements shall apply in any hospital or other health facility operated by a hospital without the express written permission of the hospital's governing body. Collaborative care agreements may be restricted by the policies and procedures of the facility.

(4) Nothing in this chapter shall interfere with the activities of a physician assistant as authorized in KRS Chapter 311.

(5) Nothing in this chapter shall interfere with the activities of an advanced practice registered nurse as authorized in KRS Chapter 314.

(6) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale or distribution of dialysate solutions as defined in Section 1 of this Act or devices necessary to perform home peritoneal dialysis to patients with end-stage renal disease, provided that the requirements established in subsection (2) of Section 1 of this Act are satisfied. No rule or administrative regulation shall be adopted or promulgated by the board under this chapter that requires the sale or distribution of dialysate solutions as defined in Section 1 of this Act or devices necessary to perform home peritoneal dialysis by a licensed pharmacist or under the supervision of a licensed pharmacist.

➔Section 3. KRS 315.400 is amended to read as follows:

As used in KRS 315.400 to 315.412:

(1) "Authorized distributor of record" means a wholesale distributor that:

(a) Has established an ongoing relationship with a manufacturer to distribute the manufacturer's prescription drug. An ongoing relationship exists between a wholesale distributor and a manufacturer if the wholesale distributor, including any affiliated group of the wholesale distributor as defined in Section 1504 of the Internal Revenue Code, has a written agreement for distribution in effect; and

(b) Is listed on the manufacturer's current list of authorized distributors of record;

(2) "Co-licensed product" means a prescription drug manufactured by two (2) or more co-licensed partners;

(3) "Counterfeit prescription drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed the drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, the other drug manufacturer, processor, packer, or distributor;

(4) "Dispenser" means:

(a) A retail pharmacy, hospital pharmacy, a group of chain pharmacies under common ownership and control that do not act as a wholesale distributor, or any other person authorized by law to dispense or administer prescription drugs, and the affiliated warehouse distribution centers of such entities under common ownership and control that do not act as a wholesale distributor; but

(b) Does not include a person who dispenses only products to be used in animals in accordance with 21 U.S.C. sec. 360b(a)(4) and (5);

(5) "Distribution" or "distribute" means the sale, purchase, trade, delivery, handling, storage, or receipt of a product, and does not include the dispensing of a product pursuant to a prescription executed in accordance with Section 503(b)(1) of the federal Drug Quality and Security Act or the dispensing of a product approved under Section 512(b) of the federal Drug Quality and Security Act;

(6) "Drop shipment" means a product not physically handled or stored by a wholesale distributor and that is exempt from Section 582 of the federal Drug Quality and Security Act, except the notification requirements

under clauses (ii), (iii), and (iv) of subsection (c)(4)(B) of Section 582 of the federal Drug Quality and Security Act, provided that the manufacturer, repackager, or other wholesale distributor that distributes the product to the dispenser by means of a drop shipment for the wholesale distributor includes on the transaction information and transaction history to the dispenser the contact information of the wholesale distributor and provides the transaction information, transaction history, and transaction statement directly to the dispenser. Providing administrative services, including the processing of orders and payments, shall not by itself be construed as being involved in the handling, distribution, or storage of a product;

(7) "Emergency medical reasons" includes but is not limited to:

(a) Transfers of a prescription drug between health-care entities or between a health-care entity and a retail pharmacy to alleviate a temporary shortage of a prescription drug arising from delays in or interruptions of the regular distribution schedules;

(b) Sales of drugs for use in the treatment of acutely ill or injured persons to nearby emergency medical services providers, firefighting organizations, or licensed health-care practitioners in the same marketing or service area;

(c) The provision of emergency supplies of drugs to nearby nursing homes, home health agencies, or hospice organizations for emergency use when necessary drugs cannot be obtained; or

(d) Transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(8) "End user" means a patient or consumer that uses a prescription drug as prescribed by an authorized health-care professional;

(9) "Exclusive distributor" means the wholesale distributor that directly purchased the product from the manufacturer and is the sole distributor of that manufacturer's product to a subsequent repackager, wholesale distributor, or dispenser;

(10) "FDA" means the United States Food and Drug Administration and any successor agency;

(11) "Illegitimate product" means a product for which credible evidence shows that the product:

(a) Is counterfeit, diverted, or stolen;

(b) Is intentionally adulterated so that the product would result in serious adverse health consequences or death to humans;

(c) Is the subject of a fraudulent transaction; or

(d) Appears otherwise unfit for distribution so that the product would be reasonably likely to result in serious adverse health consequences or death to humans;

(12) "Manufacturer" means the same as defined in KRS 315.010;

(13) "Medical gas wholesaler" means a person licensed to distribute, transfer, wholesale, deliver, or sell medical gases on drug orders to suppliers or other entities licensed to use, administer, or distribute medical gas;

(14) "Pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs to a group of pharmacies under common ownership and control;

(15) "Prescription drug" means the same as defined in KRS 315.010;

(16) "Repackager" means a person who owns or operates an establishment that repacks and relabels a product or package for further sale, or distribution without a further transaction;

(17) "Reverse distributor" means every person who acts as an agent for pharmacies, drug wholesalers, manufacturers, or other entities by receiving, taking inventory, and managing the disposition of outdated or nonsalable drugs;

(18) "Third-party logistics provider" means an entity that contracts with a manufacturer, wholesale distributor, repackager, or dispenser to provide and coordinate warehousing or other logistics services on behalf of a manufacturer, wholesale distributor, repackager, or dispenser, but does not take title to the drug or have responsibility to direct the sale of the drug. A third-party logistics provider shall be considered as part of the normal distribution channel;

(19) "Transaction" means the transfer of product between persons in which a change of ownership occurs, with the following exemptions:

(a) Intracompany distribution of any product between members of an affiliate or within a manufacturer;

(b) The distribution of a product among hospitals or other health care entities that are under common control;

(c) The distribution of a product for emergency medical reasons, including a public health emergency declaration pursuant to Section 319 of the federal Public Health Service Act, except that a drug shortage not caused by a public health emergency shall not constitute an emergency medical reason;

(d) The dispensing of a product pursuant to a prescription executed in accordance with Section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act;

(e) The distribution of product samples by a manufacturer or a licensed wholesale distributor in accordance with Section 503(d) of the Federal Food, Drug, and Cosmetic Act;

(f) The distribution of blood or blood components intended for transfusion;

(g) The distribution of minimal quantities of product by a licensed retail pharmacy to a licensed practitioner for office use;

(h) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(i) The distribution of a product pursuant to the sale or merger of a pharmacy or pharmacies or a wholesale distributor or wholesale distributors, except that any records required to be maintained for the product shall be transferred to the new owner of the pharmacy or pharmacies or wholesale distributor or wholesale distributors;

(j) The dispensing of a product approved under Section 512(c) of the Federal Food, Drug, and Cosmetic Act;

(k) Products transferred to or from any facility that is licensed by the Nuclear Regulatory Commission or by the state pursuant to an agreement with the commission under Section 274 of the federal Atomic Energy Act, 42 U.S.C. sec. 2021;

(l) A combination product that is not subject to approval under Section 505 of the federal Drug Quality and Security Act or licensure under Section 351 of the federal Public Health Service Act, and that is:

1. A product composed of a device and one (1) or more other regulated components such as a drug or drug device, a biologic or biologic device, or a drug and biologic or drug and biologic device that are physically, chemically, or otherwise combined or mixed and produced as a single entity;

2. Two (2) or more separate products packaged together in a single package or as a unit and composed of a drug and device or device and biological product; or

3. Two (2) or more finished medical devices plus one (1) or more drug or biological products that are packaged together in what is referred to as a medical convenience kit as described in paragraph (m) of this subsection;

(m) The distribution of a medical convenience kit or collection of finished medical devices which may include a product or biological product, assembled in kit form strictly for the convenience of the purchaser or user, if:

1. The medical convenience kit is assembled in an establishment that is registered with the federal Food and Drug Administration as a device manufacturer in accordance with Section 510(b)(2) of the Federal Food, Drug, and Cosmetic Act;

2. The medical convenience kit does not contain a controlled substance that appears in a schedule contained in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970;

3. In the case of a medical convenience kit that includes a product, the person that manufacturers the kit:

a. Purchased the product directly from the pharmaceutical manufacturer or from a wholesale distributor that purchased the product directly from the pharmaceutical manufacturer; and

b. Does not alter the primary container or label of the product as purchased from the manufacturer or wholesale distributor; and

4. In the case of a medical convenience kit that includes a product, the product is:

a. An intravenous solution intended for the replenishment of fluids and electrolytes;

b. A product intended to maintain the equilibrium of water and minerals in the body;

c. A product intended for irrigation or reconstitution;

d. An anesthetic;

e. An anticoagulant;

f. A vasopressor; or

g. A sympathomimetic;

(n) The distribution of an intravenous product that, by its formulation, is intended for the replenishment of fluids and electrolytes such as sodium, chloride, and potassium, or calories such as dextrose and amino acids;

(o) The distribution of an intravenous product used to maintain the equilibrium of water and minerals in the body, such as dialysis solutions;

(p) The distribution of a product that is intended for irrigation, or sterile water, whether intended for such purposes or for injection;

(q) The distribution of a medical gas as defined in Section 575 of the Federal Food, Drug, and Cosmetic Act; or

(r) The distribution or sale of any licensed product under Section 351 of the federal Public Health Service Act that meets the definition of a device under Section 201(h) of the Federal Food, Drug, and Cosmetic Act;

(20) "Wholesale distribution" means the distribution of a prescription drug to persons other than an end user ***or to the end user pursuant to subsection (2) of Section 1 of this Act***, but does not include:

(a) Intracompany sales or transfers;

(b) The sale, purchase, distribution, trade, or transfer of a prescription drug for emergency medical reasons;

(c) The distribution of prescription drug samples by a manufacturer or authorized distributor;

(d) Drug returns or transfers to the original manufacturer, original wholesale distributor, or transfers to a reverse distributor or third-party returns processor;

(e) The sale, purchase, or trade of a drug pursuant to a prescription;

(f) The delivery of a prescription drug by a common carrier;

(g) The purchase or acquisition by a health-care entity or pharmacy that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization, or health-care entities or pharmacies that are members of the group organization;

(h) The sale, purchase, distribution, trade, or transfer of a drug by a charitable health-care entity to a nonprofit affiliate of the organization as otherwise permitted by law;

(i) The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy with another pharmacy or pharmacies; or

(j) The distribution of a prescription drug to a health-care practitioner or to another pharmacy if the total number of units transferred during a twelve (12) month period does not exceed five percent (5%) of the total number of all units dispensed by the pharmacy during the immediate twelve (12) month period; and

(21) "Wholesale distributor" or "virtual wholesale distributer" means a person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or repackager engaged in wholesale distribution as defined by 21 U.S.C. sec. 353(e)(4) as amended by the federal Drug Supply Chain Security Act.

Signed by Governor March 26, 2019.

CHAPTER 158

(HB 217)

AN ACT relating to the licensure of surgical assistants.

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

➔Section 1. KRS 311.878 is amended to read as follows:

(1) ~~[After June 30, 2006,]~~An applicant for a certificate shall file a written application with the board on a form prescribed by the board and shall pay the application fee set by the board.

(2) To be eligible for a certificate***,*** a person shall:

(a) Hold and maintain certification by one (1) of the following:

1. The National ***Commission for the Certification of*** Surgical ***Assistants (NCCSA) or its successor organization***~~[Assistant Association]~~; or

2. The ***National Board of Surgical Technology and Surgical Assisting (NBSTSA) or its successor organization***~~[Liaison Council on Certification for the Surgical Technologist]~~;

(b) Document one (1) of the following:

1. Graduation from a program approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or

2. Graduation from a United States Military program that emphasizes surgical assisting; and

(c) Demonstrate to the satisfaction of the board the completion of full-time work experience performed in this country under the direct supervision of a physician licensed in this country and consisting of at least eight hundred (800) hours of performance as an assistant in surgical procedures for the three (3) years preceding the date of the application.

➔SECTION 2. A NEW SECTION OF KRS 311.864 TO 311.890 IS CREATED TO READ AS FOLLOWS:

(1) (a) Based upon verified information contained in the application for certification to practice as a surgical assistant, the board may issue a temporary certificate which shall entitle the holder to practice as a surgical assistant for a maximum of six (6) months from the date of issuance.

(b) After appropriate consultation with the executive director, the board may cancel the temporary certificate at any time, without a hearing, for reasons it deems sufficient.

(c) The executive director shall cancel the temporary certificate immediately upon direction by the board, or upon the board's denial of the holder's application for a regular certificate.

(d) The temporary certificate shall not be renewable.

(2) The board shall consider the application for certification made by the holder of a temporary certificate. If the board issues a regular certificate to the holder of a temporary certificate, the fee paid in connection with the temporary certificate shall be applied to the regular certificate fee.

(3) If the board cancels a temporary certificate:

(a) It shall promptly notify the holder of the temporary certificate by United States certified mail at the last known address on file with the board; and

(b) The temporary certificate shall be terminated and shall have no further force or effect three (3) days after the date the notice was sent by certified mail.

➔Section 3. The following KRS section is repealed:

311.882 Issuance of certificate before July 1, 2005.

Signed by Governor March 26, 2019.

CHAPTER 159

(HB 420)

AN ACT relating to radon gas certifications.

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

➔Section 1. KRS 211.9101 is amended to read as follows:

As used in KRS 211.9101 to 211.9135, unless the context requires otherwise:

(1) "Alter" means to change or modify a building or building design, or to revise, rather than repair, a mitigation system or mitigation system design;

(2) "Analytical analysis" means the act of analyzing the radon or radon progeny concentrations with active measurement devices;

(3) ~~["Applicant" means a radon laboratory or a person who applies for certification as a radon measurement contractor or radon mitigation contractor;~~

~~(4)]~~"Building" means any structure used or intended to be used for supporting or sheltering any use or occupancy;

(4)~~[(5)]~~ "Cabinet" means Cabinet for Health and Family Services;

(5)~~[(6)]~~ "Certified" means meeting the ***certification*** requirements of ***a proficiency program for***~~[KRS 211.9109, 211.9111, or 211.9115 in order to perform]~~ radon measurement, radon mitigation, or radon laboratory analysis;

(6)~~[(7)]~~ "Commercial building" means any building other than a residential building, including those buildings intended for public purposes;

(7)~~[(8)]~~ "Commissioner" means the commissioner of the Department for Public Health;

(8)~~[(9)]~~ "Committee" means the Kentucky Radon Program Advisory Committee;

(9)~~[(10)]~~ "Compensation" means something of value given or received in exchange for radon measurement, radon mitigation, or laboratory analysis;

(10)~~[(11)]~~ "Contractor" means a person or business entity that provides goods or services to another person under the terms specified in a contract or verbal agreement, and who is not an agent or employee of that person;

(11)~~[(12)]~~ "Direct supervision" means constant onsite supervision by a certified person;

(12)~~[(13)]~~ "General supervision" means intermittent onsite supervision by a certified person who accepts responsibility for ensuring compliance by his or her employees or subcontractors with all applicable requirements under KRS 211.9101 to 211.9135;

(13)~~[(14)]~~ "Government agency" means the Commonwealth of Kentucky, a state agency, a political subdivision, or any entity of local government;

(14)~~[(15)]~~ "Laboratory analysis" means the act of analyzing the radon or radon progeny concentrations with passive measurement devices, or the act of calibrating radon or radon progeny measurement devices, or the act of exposing radon or radon progeny devices to controlled concentrations of radon or radon progeny;

(15)~~[(16)]~~ "Measurement" means the act of testing the air, water, or soil using an active or passive measurement device for the presence of radon or radon progeny in the indoor environment of a building;

(16)~~[(17)]~~ "Measurement device" means any~~[cabinet approved]~~ active or passive device ***approved by a proficiency program and*** used for the measurement of radon or radon progeny in air, water, or soil in the indoor environment of a building;

(17)~~[(18)]~~ "Measurement contractor" means a person ***certified by a proficiency program*** who ***provides***~~[meets the requirements of KRS 211.9109 and is certified by the cabinet to conduct]~~ radon measurement for compensation ***and who meets the requirements of Section 4 of this Act***;

(18) ~~[(19)]~~ "Mitigation" means the act of installing, repairing, or altering an active or passive system, for the purpose in whole or in part of reducing the concentration of radon or radon progeny in the indoor environment of a building;

(19) ~~[(20)]~~ "Mitigation contractor" means a person ***certified by a proficiency program*** who ***provides*** ~~[meets the requirements of KRS 211.9111 and is certified by the cabinet to conduct]~~ radon mitigation for compensation ***and who meets the requirements of Section 5 of this Act***;

(20) ~~[(21)]~~ "Mitigation system" means any active or passive system designed to reduce radon concentrations in the indoor environment of a building;

(21) ~~[(22)]~~ "Person" has the same meaning as in KRS 446.010;

(22) "Proficiency program" means either the National Radon Proficiency Program or the National Radon Safety Board;

(23) "Radon" means a naturally occurring radioactive element that exists as a colorless, odorless, and tasteless inert gas;

(24) "Radon decay products" means the four (4) short-lived radioactive elements polonium (Po-218), lead (Pb-214), bismuth (Bi-214), and polonium (Po-214) which exist as solids and immediately follow radon (Rn-222) in the decay chain;

(25) "Radon laboratory" means a business entity ***certified by a proficiency program*** that ***provides*** ~~[meets the requirements of KRS 211.9115 and is certified by the cabinet to conduct]~~ laboratory analysis for compensation ***and meets the requirements of Section 7 of this Act***;

(26) "Radon progeny" means any combination of the radioactive decay products of radon;

(27) ***"Registrant" means a person or business entity registered with the cabinet as a measurement contractor, mitigation contractor, or radon laboratory;***

(28) "Research" means cabinet-approved scientific investigation that includes radon measurement, radon mitigation, or laboratory analysis;

(29) ~~[(28)]~~ "Residential building" means detached one (1) to four (4) family dwellings not more than three (3) stories in height where occupants are primarily permanent in nature; and

(30) ~~[(29)]~~ "Standard operating procedure" means a written document ***established by an accredited American National Standards Institute development organization*** that describes in detail commonly accepted methods for the performance of certain tasks ***associated with radon measurement, mitigation, or laboratory analysis***.

➔Section 2. KRS 211.9105 is amended to read as follows:

The committee shall:

(1) Advise the cabinet with the review, development, and maintenance of standard operating procedures for radon measurement, radon mitigation, laboratory analysis, and quality control;

(2) Advise the cabinet with preparing an annual budget for the use of moneys received by the cabinet from the collection of fees and fines, receipt of grants, and all other radon-related activities;

(3) Review and comment on relevant administrative regulations that are promulgated pursuant to KRS 211.9101 to 211.9135 and make recommendations to and otherwise advise the cabinet on these matters;

(4) ***Record*** ~~[Keep]~~ minutes of committee meetings and ~~[a record of all]~~proceedings ***which shall be documented and maintained for the committee by the cabinet in a public forum***;

(5) Make recommendations to the cabinet provided that the final determination rests with the cabinet;

(6) Hold the first meeting of the committee no later than October 1, 2011, to be convened by the commissioner; and

(7) Perform any other duties and responsibilities relating to the topic of radon that may be assigned by the cabinet.

➔Section 3. KRS 211.9107 is amended to read as follows:

No person or business entity shall conduct radon measurement, mitigation, or laboratory analysis in this Commonwealth after January 1, 2013, without the appropriate certification pursuant to KRS 211.9101 to 211.9135. No person or business entity shall advertise or claim to be a "certified measurement contractor," "certified mitigation

contractor," or "certified radon laboratory," unless certified pursuant to KRS 211.9101 to 211.9135. Certification requirements under KRS 211.9101 to 211.9135 shall apply to a radon measurement contractor, radon mitigation contractor, or radon laboratory, but shall not apply to:

(1) A person performing measurement or mitigation on a single-family residential building that he or she owns and occupies;

(2) A person performing measurement on a residential or commercial building that he or she owns;

(3) ***A person performing measurement who assists, and is under the general supervision of, a measurement contractor***~~[An apprentice in the process of learning radon measurement, mitigation, or laboratory analysis who assists and is under the general supervision of a measurement or mitigation contractor]~~;

(4) ***A person performing mitigation who assists, and is under the direct supervision of, a mitigation contractor;***

(5) An agent of the federal, state, or local government agency acting within an official capacity~~[who shall make payment of certification fees but who shall not otherwise be required to comply with KRS 211.9101 to 211.9135]~~;

(6)~~[(5)]~~ A person performing measurement or mitigation as part of a scientific research project approved by the cabinet;

(7)~~[(6)]~~ A retail store or any other organization that sells or distributes radon measurement devices and is not engaged in a relationship with the client for other services, such as home inspection or real estate brokerage, and that does not conduct measurement, mitigation, or laboratory analysis;

(8)~~[(7)]~~ A person performing measurement or mitigation as part of radon training approved by ***a proficiency program***~~[the cabinet]~~; or

(9)~~[(8)]~~ A building contractor installing vent pipes during the construction of a commercial building or home.

➔Section 4. KRS 211.9109 is amended to read as follows:

(1) The cabinet shall issue a ~~[certification as a]~~radon measurement contractor ***registration certificate*** to any person ***certified for measurement*** who:

(a) ***Completes a registration process prescribed by the cabinet through promulgation of an administrative regulation***~~[Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation]~~; ***and***

(b) ***Furnishes evidence of a general liability insurance policy that satisfies the requirements of Section 6 of this Act***~~[Pays the certification fee established by the cabinet through promulgation of an administrative regulation within the following restrictions:~~

~~1. An initial certification fee shall not exceed two hundred fifty dollars ($250);~~

~~2. An annual renewal fee shall not exceed two hundred fifty dollars ($250);~~

~~3. A duplicate certificate fee shall not exceed twenty dollars ($20); and~~

~~4. A late renewal fee shall not exceed one hundred dollars ($100);~~

~~(c) Provides the cabinet with documentation of successful completion of a cabinet-approved radon measurement course and exam;~~

~~(d) For renewal of certification, provides proof of completion of at least eight (8) hours of continuing education per year;~~

~~(e) Submits a quality control program plan that meets the minimum standard operating procedures requirements as established by the cabinet through promulgation of an administrative regulation; and~~

~~(f) Furnishes evidence of financial responsibility to the cabinet consisting of a liability insurance policy that satisfies the requirements of KRS 211.9113]~~.

(2) ***The cabinet shall renew the radon measurement contractor registration certificate of any person who:***

(a) Presents proof of compliance with a cabinet approved proficiency program; and

(b) Who furnishes evidence of a general liability insurance policy that satisfies the requirements of Section 6 of this Act;

(3) A measurement contractor shall:

(a) Ensure all measurements are conducted in accordance with the ***applicable*** ~~[measurement]~~standard operating procedures~~[established by the cabinet through promulgation of an administrative regulation]~~;

(b) Maintain a quality control program plan ***in accordance with the standard operating procedures for measurement quality assurance and control*** ~~[that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation]~~;

(c) Ensure all ***measurements*** ~~[measurement activities]~~ are conducted under the general supervision of ***a*** ~~[an individual certified to conduct radon]~~measurement ***contractor***;

(d) Use or sell only ***measurement*** ~~[cabinet approved]~~ devices ***approved by the proficiency program that certifies the person*** ~~[to conduct radon measurement]~~; and

(e) Ensure all ~~[services procured from a radon]~~laboratory ***analysis is*** ~~[are]~~ procured ***through*** ~~[from]~~ a radon laboratory~~[certified by the cabinet]~~.

➔Section 5. KRS 211.9111 is amended to read as follows:

(1) The cabinet shall issue a ~~[certification as a]~~mitigation contractor ***registration certificate*** to any person ***certified for mitigation*** who:

(a) ***Completes a registration process prescribed by the cabinet through promulgation of an administrative regulation*** ~~[Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation]~~; ***and***

(b) ***Furnishes evidence of a general liability insurance policy that satisfies the requirements of Section 6 of this Act*** ~~[Pays the certification fee established by the cabinet through promulgation of an administrative regulation within the following restrictions:~~

~~1. An initial certification fee shall not exceed two hundred fifty dollars ($250);~~

~~2. An annual renewal fee shall not exceed two hundred fifty dollars ($250);~~

~~3. A duplicate certificate fee shall not exceed twenty dollars ($20); and~~

~~4. A late renewal fee shall not exceed one hundred dollars ($100);~~

~~(c) Provides the cabinet with documentation of successful completion of a cabinet approved radon mitigation course and exam;~~

~~(d) For renewal of certification, provides proof of completion of at least eight (8) hours of continuing education credit per year;~~

~~(e) Submits a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation; and~~

~~(f) Furnishes evidence of financial responsibility to the cabinet consisting of a liability insurance policy that satisfies the requirements of KRS 211.9113]~~.

(2) ***The cabinet shall renew the mitigation contractor registration certificate of any person who:***

(a) Presents proof of compliance with a cabinet-approved proficiency program; and

(b) Who furnishes evidence of a general liability insurance policy that satisfies the requirements of Section 6 of this Act.

(3) A mitigation contractor shall:

(a) Ensure all mitigations are conducted in accordance with ***the applicable*** mitigation standard operating procedures~~[established by an administrative regulation promulgated by the cabinet]~~;

(b) Maintain a quality control program plan ***in accordance with the applicable*** ~~[that meets the minimum]~~ standard operating procedures ***for mitigation quality assurance and control*** ~~[requirements established by the cabinet through promulgation of an administrative regulation]~~;

(c) Ensure all mitigation ***is*** ~~[activities are]~~ conducted under the ***direct*** ~~[general]~~ supervision of ***a*** ~~[an individual certified to conduct radon]~~ mitigation ***contractor***;

(d) Ensure ***all*** post-mitigation measurement is conducted by a ~~[person certified to conduct]~~measurement ***contractor***; and

(e) Ensure all radon mitigation systems repaired or altered on or after January 1, 2013, meet the ***applicable*** mitigation standard operating procedures ~~[established by an administrative regulation promulgated by the cabinet]~~.

➔Section 6. KRS 211.9113 is amended to read as follows:

Each mitigation or measurement contractor shall maintain an insurance policy that:

(1) Is issued by an insurance company or other legal entity permitted to transact insurance business in the Commonwealth of Kentucky;

(2) Provides for general liability coverage ***for measurement contractors*** in an amount of at least ***two hundred fifty thousand dollars ($250,000)***~~[five hundred thousand dollars ($500,000)]~~ that is maintained in effect at all times during the ***registration***~~[certification]~~ period;

(3) ***Provides for general liability coverage for mitigation contractors and radon laboratories in an amount of at least five hundred thousand dollars ($500,000) that is maintained in effect at all times during the registration period;***

(4) Lists the cabinet as a certificate holder of any insurance policy issued under subsection (1) of this section; and

(5)~~[(4)]~~ States that cancellation or nonrenewal of the underlying liability insurance policy is not effective until the cabinet receives at least ten (10) days' written notice of the cancellation or nonrenewal.

➔Section 7. KRS 211.9115 is amended to read as follows:

(1) The cabinet shall issue a ~~[certification as a]~~radon laboratory ***registration certificate*** to any ***business entity certified for radon laboratory analysis that completes a registration process prescribed by the cabinet through promulgation of an administrative regulation***~~[person or entity that:~~

~~(a) Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation that includes the name of at least one (1) measurement contractor who is responsible for analytical activities;~~

~~(b) Pays the certification fee as established by the cabinet through promulgation of an administrative regulation within the following restrictions:~~

~~1. An initial certification fee shall not exceed two hundred fifty dollars ($250);~~

~~2. An annual renewal fee shall not exceed two hundred fifty dollars ($250);~~

~~3. A duplicate certificate fee shall not exceed twenty dollars ($20); and~~

~~4. A late renewal fee shall not exceed one hundred dollars ($100);~~

~~(c) Submits a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation;~~

~~(d) Utilizes only cabinet-approved measurement devices and analytical services, and submits a description of each type of measurement device and analytical service utilized; and~~

~~(e) Provides documentation of enrollment and good standing within a cabinet-approved independent laboratory accreditation program for each type of measurement device and analytical service utilized]~~.

(2) ***The cabinet shall renew the radon laboratory registration certificate of any business entity that:***

(a) Presents proof of compliance with a cabinet approved proficiency program; and

(b) Who furnishes evidence of a general liability insurance policy that satisfies the requirements of Section 6 of this Act;

(3) A radon laboratory shall:

(a) ~~[Employ as a staff member at least one (1) measurement contractor who shall direct the analytical activities of the laboratory;~~

~~(b)]~~Ensure all laboratory analysis ***is***~~[activities are]~~ conducted in accordance with the ***applicable laboratory analysis***~~[minimum]~~ standard operating procedures~~[requirements established by the cabinet through~~

~~promulgation of an administrative regulation for each type of measurement device and analytical service utilized~~]; and

(b) ~~[(c)]~~ ***Maintain a quality control program plan in accordance with the applicable standard operating procedures for laboratory analysis quality assurance and control*** ~~[Ensure all radon laboratory analyses are conducted in compliance with applicable state and federal regulations]~~.

➔Section 8. KRS 211.9119 is amended to read as follows:

A business entity may engage in ~~[the business of]~~radon measurement, mitigation, or laboratory analysis if the owner or an employee associated with the business entity is ~~[certified as]~~a measurement or mitigation contractor, or radon laboratory**,** as applicable.~~[A measurement or mitigation contractor directly in charge of measurement or mitigation activities within the business entity shall notify the cabinet in writing immediately upon termination of a relationship with the business entity.]~~

➔Section 9. KRS 211.9121 is amended to read as follows:

(1) A person ***or business entity*** seeking ***biennial registration*** ~~[annual renewal of certification]~~ shall ***complete the registration process and pay the fee prescribed by the cabinet through the promulgation of administrative regulations*** ~~[pay the renewal fee not to exceed two hundred fifty dollars ($250) as promulgated by the cabinet in an administrative regulation and shall submit an application for renewal on a form prescribed by the cabinet. An application for renewal is deemed filed on the date that it is received by the cabinet]~~.

(2) ***Registrations*** ~~[Certificates]~~ not renewed within thirty (30) days after the renewal date shall ***lapse and may only be reinstated upon the completion of the registration process as prescribed by the cabinet through the promulgation of administrative regulations*** ~~[pay a late renewal fee not to exceed one hundred dollars ($100) as promulgated by the cabinet in administrative regulation]~~.

(3) ***A registrant shall report any change of information submitted during the registration process in writing to the cabinet within ten (10) days of such change taking place. The cabinet shall not be responsible for a registrant not receiving notices, communications, or other correspondence caused by a failure of the registrant to report changes*** ~~[Certificates not renewed within ninety (90) days of the renewal date shall lapse and may only be reinstated upon payment of a late renewal fee and initial certificate fee as promulgated by the cabinet in an administrative regulation and providing proof of insurance as required under KRS 211.9113.~~

~~(4) A certified person shall report any change of information submitted in applying for certification in writing to the cabinet within ten (10) days of such change taking place. The cabinet shall not be responsible for a certified person not receiving notices, communications, and other correspondence caused by failure of the certified person to report changes.~~

~~(5) The cabinet shall promulgate administrative regulations for establishing an inactive certification status]~~.

➔Section 10. KRS 211.9125 is amended to read as follows:

(1) Subject to an administrative hearing conducted in accordance with KRS Chapter 13B, the cabinet may revoke, suspend, or restrict the ***registration*** ~~[certificate]~~ of a ***registrant*** ~~[certificate holder]~~, refuse to issue or renew ***registration*** ~~[certification]~~, reprimand, censure, place on probation, or impose a fine not to exceed five hundred dollars ($500) ***per occurrence*** on a ***certified*** person ***or business entity*** who:

(a) Has been convicted of a felony under the laws of the Commonwealth of any crime that involves theft or dishonesty, or is a sex crime as defined by KRS 17.500~~[, if in accordance with KRS Chapter 335B]~~;

(b) Has had disciplinary action taken against a professional license, certification, registration, or permit held by the person ***or business entity*** seeking ***registration*** ~~[certification]~~;

(c) Engaged in fraud or deceit in obtaining certification ***or registration***;

(d) Attempts to transfer the authority granted by the ***registration*** ~~[certificate]~~ to another person ***or business entity***;

(e) Disregards or violates the building codes, electrical codes, or related laws of this Commonwealth or ordinances of any city, county, urban-county government, consolidated local government, charter county government, or unified local government;

(f) Aids or abets any person attempting to evade the provisions of KRS 211.9101 to 211.9135 or the administrative regulations promulgated thereunder by the cabinet;

(g) Uses unfair or deceptive trade practices; or

(h) Knowingly violates any of the provisions of KRS 211.9101 to 211.9135 or any administrative regulation promulgated thereunder by the cabinet~~[pertaining to radon measurement, mitigation, or laboratory analysis]~~.

(2) If an application for ***registration*** ~~[certification]~~ or renewal of ***registration*** ~~[certification]~~ is denied, the person ***or business entity*** seeking ***registration*** ~~[certification]~~ shall not conduct radon measurement, mitigation, or laboratory analysis within the Commonwealth of Kentucky.

(3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the cabinet may institute proceedings in the Circuit Court of the county where the person resides ***or the business entity is located*** for an order enjoining the person ***or business entity*** from engaging or attempting to engage in activities that violate any provisions of KRS 211.9101 to 211.9135 or any administrative regulation promulgated thereunder by the cabinet~~[pertaining to radon measurement, mitigation, or laboratory analysis]~~.

(4) Any final order of the cabinet may be appealed to the Circuit Court of the county in which the person resides ***or the business entity is located*** after a written decision is rendered in accordance with KRS Chapter 13B.

➔Section 11. KRS 211.9129 is amended to read as follows:

(1) The cabinet may examine records of mitigation contractors, measurement contractors, and radon laboratories, ***including but not limited to conducting*** ~~[and conduct]~~inspections of mitigation system installations ***and measurement locations*** in order to ensure ***that radon measurement, mitigation, and laboratory analysis are conducted in accordance with the applicable*** ~~[radon mitigation systems are installed in compliance with mitigation]~~ standard operating procedures~~[established by the cabinet through promulgation of an administrative regulation]~~.

(2) ~~[The cabinet may examine records of measurement contractors, mitigation contractors, and radon laboratories to ensure radon measurements are conducted in compliance with measurement standard operating procedures established by the cabinet through promulgation of an administrative regulation.~~

~~(3)]~~The cabinet may test any equipment used for measurement***,*** ~~[or]~~mitigation, ***or laboratory analysis;*** photograph or sketch any portion of a site, building, or equipment involved in measurement***,*** ~~[or]~~mitigation, ***or laboratory analysis*** ~~[or copy any documents or records pertaining to measurement or mitigation]~~.

(3) ~~[(4)]~~ No person shall use or continue to use, or permit the use or continued use of, any radon mitigation system if an agent or inspector of the cabinet finds that the radon mitigation system was not constructed, installed, or altered in accordance with the ***applicable*** mitigation standard operating procedures~~[established by the cabinet through promulgation of an administrative regulation]~~.

(4) ~~[(5)]~~ For purposes of enforcing KRS 211.9101 to 211.9135 or any administrative regulation promulgated by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis, an agent or inspector of the cabinet shall have the power to enter upon premises at all reasonable times to make an inspection, question all persons, and require the production of radon mitigation system plans, sketches, diagnostic information, and other evidence.

(5) ~~[(6)]~~ Agents and inspectors of the cabinet shall be empowered to issue a stop order to any owner, agent, or occupant of real property requiring that the radon mitigation system thereon cease operation if that system has been found to be in violation of KRS 211.9101 to 211.9135 or any administrative regulation promulgated thereunder by the cabinet~~[pertaining to radon measurement, mitigation, or laboratory analysis]~~.

(6) ~~[(7)]~~ A person shall not interfere with an inspection conducted by an agent or inspector of the cabinet.

➔Section 12. KRS 211.9131 is amended to read as follows:

(1) Any certified person ***or business entity*** shall report to the cabinet the discovery of any apparent noncompliance with any provision of KRS 211.9101 to 211.9135 or any administrative regulation promulgated thereunder by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis.

(2) Records required by this chapter or administrative regulations promulgated under KRS 211.9101 to 211.9135, including but not limited to records of radon measurement, mitigation, quality control program plans, calibration certifications, laboratory analysis activities, worker health and safety plans, and equipment repairs shall be retained by ***registrants*** ~~[certificate holders]~~, as applicable, for a minimum period of five (5) years or the length of time of any warranty or guarantee, whichever is greater. ***Records obtained by the cabinet are exempt from the disclosure requirements of KRS 61.870 to 61.884, except that the cabinet shall make the records available upon request:***

(a) To the owner or occupant of a building; and

(b) To the public aggregated at the zip code level without identifying individual homeowners or individual property locations.

(3) Any measurement or mitigation contractor applying for ***registration***~~[certification]~~ or renewal of ***registration***~~[certification]~~ shall specify, for approval by the cabinet, the location where records required under this section shall be maintained for inspection by the cabinet. This location shall be within the Commonwealth of Kentucky~~[or within fifty (50) miles of the border of the Commonwealth of Kentucky and at the location where the certificate holder who supervises the quality control program plan is located]~~.

➔Section 13. KRS 211.9135 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky.

(2) The cabinet shall develop and conduct programs for evaluation and control of activities related to radon***,*** including laboratory analyses, mitigation, and measurements.

(3) The cabinet shall:

(a) Promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce KRS 211.9101 to 211.9135***, including the establishment of fees not to exceed costs to the cabinet***;

(b) Maintain a ***public*** list of all certified persons ***or business entities registered by the cabinet***;

(c) Issue ***a registration certificate to certified persons or business entities registered by the cabinet***~~[certificates and certificate renewals to qualified persons]~~;

(d) ~~[Promulgate administrative regulations establishing requirements for:~~

~~1. A quality control program plan for certified persons, including what each certified person administering a plan shall submit and maintain; and~~

~~2. Mitigation and measurement standard operating procedures;~~

~~(e)]~~Promote the control of radon in the Commonwealth;

(e)~~[(f)]~~ Design and administer, or participate in the design and administration of educational and research programs to ensure citizens of the Commonwealth are informed about the health risks associated with radon;

(f)~~[(g)]~~ Appoint personnel to perform duties and fix their compensation;

(g)~~[(h)]~~ Issue subpoenas, administer oaths, examine witnesses, investigate allegations of wrongdoing, and conduct administrative hearings in accordance with KRS Chapter 13B to enforce KRS 211.9101 to 211.9135; and

(h)~~[(i)]~~ Collect or receive all fees, fines, and other moneys owed pursuant to KRS 211.9101 to 211.9135, and deposit all those moneys into the radon mitigation and control fund established by KRS 211.9133.

➔Section 14. The following KRS sections are repealed:

211.9117 Display of certification number -- Limitation of activities of persons with dual certifications.

211.9123 State certification by reciprocity.

211.9127 Continuing education requirements for certified persons.

Signed by Governor March 26, 2019.

CHAPTER 160

(HB 435)

AN ACT relating to the transportation and removal of dead human bodies.

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

➔Section 1. KRS 316.010 is amended to read as follows:

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

(1) "Apprentice" means a person engaged in learning the practice of embalming or funeral directing who is under the instruction and personal supervision of a Kentucky-licensed embalmer or a Kentucky-licensed funeral director;

(2) "Board" means the Kentucky Board of Embalmers and Funeral Directors;

(3) "Direct burial" means the pick-up, transport, and interment of a dead human body or body parts without a funeral;

(4) "Embalmer" means a person who preserves, restores, and disinfects dead human bodies by the application of chemical substances either externally or internally, or both;

(5) "Embalming service establishment" means a place of business where dead human bodies are embalmed or otherwise prepared or held for burial~~[, including the transportation of the bodies]~~. An embalming service establishment shall not arrange or conduct a funeral or direct burial. An embalming service establishment may arrange for and transport dead human bodies ~~[for direct cremation purposes]~~only under the following circumstances:

(a) On behalf of a full-service funeral establishment;

(b) On behalf of a visitation and ceremonial funeral establishment; or

(c) At the direction of a coroner;

(6) "Funeral" means the ceremonies or services related to the final disposition and interment of a human body or body parts;

(7) "Full-service funeral establishment" means a place of business where dead human bodies may be embalmed or otherwise prepared and held for burial and where funeral services may be arranged, provided, and conducted;

(8) "Funeral director" means a person who, for profit, engages in or represents himself or herself as engaged in the supervision, direction, and arrangement of funeral services, transportation, burials, and disposals of dead human bodies;

(9) "Funeral establishment" or "establishment" means:

(a) A full-service funeral establishment;

(b) An embalming service establishment; or

(c) A visitation and ceremonial funeral service establishment;

(10) "Memorial service" means a ceremony or service held in honor of a deceased human being at which there are no human remains, as defined in KRS 367.97501(14) present, and for which no license is required;

(11) "Person," as used in this chapter, includes but is not limited to an individual, partnership, firm, association, or corporation;

(12) "In use" means that funeral directing or embalming is taking place in a funeral establishment;

(13) "Courtesy card" means a card that is issued by the board to a funeral director or an embalmer from another state that gives the director or embalmer permission to receive and transport a dead human body to and from Kentucky for a funeral and to conduct funeral services and burials in Kentucky;

(14) "Supervision" means responsibility for the professional activities of the funeral establishment that requires a Kentucky-licensed funeral director or a Kentucky-licensed embalmer, as appropriate, to be on the premises when the funeral establishment is in use. If the Kentucky-licensed funeral director or the Kentucky-licensed embalmer is unable to be on the premises due to a reasonable circumstance, then the Kentucky-licensed funeral director or the Kentucky-licensed embalmer shall be within a reasonable proximity to the funeral establishment so that upon contact the funeral director or embalmer is able to immediately return to the funeral establishment; and

(15) "Visitation and ceremonial funeral service establishment" means a location from which a funeral establishment may provide all services except embalming within either the same or adjoining county as that served by an

affiliated full-service funeral establishment. The visitation and ceremonial funeral service establishment shall be owned in whole or in part by the affiliated full-service funeral establishment, and shall be located sufficiently close to the full-service funeral establishment to share administration and services in a manner that renders it unnecessary for the visitation and ceremonial funeral service establishment to independently meet the minimum licensure requirements for a full-service funeral establishment. A full-service funeral establishment may own and operate more than one (1) visitation and ceremonial funeral service establishment.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 316 IS CREATED TO READ AS FOLLOWS:

(1) Any person employed by a full-service funeral establishment or an embalming service establishment, except a common carrier engaged in interstate commerce, the Commonwealth and its agencies, or an emergency medical services provider duly certified or licensed pursuant to KRS Chapter 311A, who wants to engage in the business of surface transportation or removal of dead human bodies in the Commonwealth, shall apply for and may be granted a permit from the board.

(2) Surface transportation and removal services shall not include:

(a) The arrangement or conduction of funerals;

(b) The provision for the care or preparation, including embalming, of dead human bodies; or

(c) The sale or provision of funeral-related goods and services;

without also the issuance of a funeral service establishment license or an embalming service establishment license.

(3) The board shall promulgate administrative regulations related to the processes and procedures for the permitting of persons to provide surface transportation and removal services of dead human bodies.

Signed by Governor March 26, 2019.

CHAPTER 161

(HB 419)

AN ACT relating to the contracting or reemployment of retired state and local employees.

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

➔Section 1. KRS 61.590 is amended to read as follows:

(1) ***(a)*** A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, a correctly completed notification of retirement, giving his ***or her*** name, address, Social Security number or Kentucky Retirement Systems member identification number, last day of employment, and other information the system may require. The form entitled "Notification of Retirement" shall not be filed more than six (6) months before the member's effective retirement date***; and*** ~~[.]~~

(b) A member eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify in writing on the "Notification of Retirement" form or another form prescribed by the board that no prearranged agreement existed prior to the member's retirement between the member and any participating agency in the systems administered by the Kentucky Retirement Systems for the member to return to employment with the participating agency. No retirement benefits shall be paid to the member until the member completes the certification required by this paragraph.

(2) After receipt of the correctly completed form entitled "Notification of Retirement", the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary.

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked one (1) payment option of his choice, signed the document, and had his signature witnessed. A member shall not have the right to select a different payment option on or after the first day of the month in which the member receives his or her first retirement allowance or after the effective date of a deferred retirement option as provided by subsection (6) of this section. A beneficiary shall not have the right to select a different payment option after the effective date of the beneficiary's retirement allowance as provided in subsection (7) of this section.

(4) A member or beneficiary choosing a monthly payment option shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) (a) The effective date of normal retirement shall be the first month following the month in which employment from all employers participating in any of the systems administered by Kentucky Retirement Systems was terminated.

(b) The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred, provided the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following the date the notification of approval for disability retirement benefits is mailed. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months of the date the notification of approval for disability retirement benefits is mailed, then the member's form entitled "Notification of Retirement" shall be void. The member shall be required to submit a new form entitled "Notification of Retirement" to apply for disability retirement and reestablish eligibility for disability retirement benefits.

(c) The effective date of early retirement shall be the first month following the month a correctly completed form entitled "Notification of Retirement" is filed at the retirement office or a future month designated by the member, if employment from all employers participating in any of the systems administered by Kentucky Retirement Systems has been terminated and if the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following termination. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months following the effective retirement date of the member, then the member's form entitled "Notification of Retirement" shall be void and the member shall be required to submit a new form entitled "Notification of Retirement" to apply for early retirement.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first day of the month in which the member would have received his or her first retirement allowance and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

➔Section 2. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in

determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) ***If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems within twelve (12) months of his or her retirement date, the*** ~~[A]~~ retired member ~~[or his employer]~~shall notify the retirement system~~[if he has accepted employment or is serving as a volunteer with an employer that participates in the retirement system from which the member retired. The retired member]~~ and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status. ***The retired member shall not be required to notify the retirement systems regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.***

(9) If the retired member is under a contract ***to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems within twelve (12) months of his or her retirement date***, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor ***or leased employee*** for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's~~[employment or volunteer]~~ status ***as an independent contractor or leased employee***. ***The retired member shall not be required to notify the retirement systems regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.***

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.

(17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who retired~~[prior to January 1, 2019,]~~ and who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. ***If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the***~~[Both the employee and]~~ participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she

shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency ***fails*** ~~[or employer fail]~~ to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer**.** ***Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph***;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. ***If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date the*** ~~[Both the employee and]~~ participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency ***fails*** ~~[or employer fail]~~ to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer**.**

Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems;~~[and]~~

4. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;

2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and

4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;~~[and]~~

(f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:

1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or

2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body***;***~~[.]~~

(g) If a member is receiving a retirement allowance from any of the retirement systems administered by the Kentucky Retirement Systems and enters into a contract or becomes a leased employee of an employer under contract with an employer participating in one (1) of the systems administered by the Kentucky Retirement Systems:

1. At any time following retirement, if the system determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;

2. Within three (3) months following the member's initial retirement date, if the system determines the employment arrangement does not qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;

3. After three (3) months but within twelve (12) months following the member's initial retirement, if the system determines the employment arrangement does not qualify as an independent contractor or leased employee and that a prearranged agreement existed between the member and the agency for the member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection; and

4. After a twelve (12) month period following the member's initial retirement, the member may continue to receive his or her retirement allowance during the period of the contract and the member shall not be required to notify the system or submit any documentation for purposes of this section to the system.

The initiation of a contract or the initial date of the leased employment of a retired member by a participating agency that occurs after twelve (12) months or more following the retired member's retirement date shall not constitute a prearranged agreement under this subsection; and

(h) The Kentucky Retirement Systems shall issue a final determination regarding a certification of the absence of a prearranged agreement or the retired member's qualification as an independent contractor or leased employee as required under this section no later than thirty (30) days after the retired member and participating employer provide all required forms and additional information required by the Kentucky Retirement Systems.

(18) ***The Kentucky Retirement Systems shall promulgate administrative regulations to implement the requirements of this section, including incorporating by reference board-prescribed forms that a retired member and participating agency shall provide the systems under subsections (8), (9), and (17) of this section.***~~[Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (17) of this section, the following shall apply to retired members, retirees, or annuitants of the systems or plans administered by the Kentucky Retirement Systems, the Judicial Form Retirement System, and the Teachers' Retirement System, who retire and begin drawing a retirement allowance on or after January 1, 2019, and are reemployed on or after January 1, 2019, by an agency participating in the systems administered by the Kentucky Retirement Systems:~~

~~(a) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed in any position with an agency participating in any of the systems administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a three (3) month period following the member's initial retirement date from the systems, the member's retirement shall be voided and the member shall repay to the system all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that is considered a regular full-time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:~~

~~1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and~~

~~2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of KRS 6.525, 21.374, 61.5955, or 61.5956;~~

~~(b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member, annuitant, or retiree is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed or elected to a position with an agency participating in the systems~~

~~administered by the Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date from the system:~~

~~1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;~~

~~2. The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;~~

~~3. The retired member may continue to draw his or her retirement allowance during the period of reemployment if:~~

~~a. The period of reemployment is not considered regular full-time as defined by paragraph (g) of this subsection; or~~

~~b. The period of reemployment is considered regular full-time but the member has not returned to reemployment for at least a twelve (12) month period following his or her initial retirement. If the member returns to reemployment in a regular full-time position after a three (3) month but prior to a twelve (12) month period following his or her initial retirement, then the member's retirement allowance shall be suspended until twelve (12) months following his or her initial retirement; and~~

~~4. The employer shall pay the employer normal cost contributions as specified by KRS 61.565(1)(b) and 61.702, on all creditable compensation earned by the employee during the period of regular full-time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf for the period of regular full-time reemployment and shall be used to pay down the unfunded liability of the systems;~~

~~(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed in any position with an agency participating in the systems or plans administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a one (1) month period following the member's initial retirement date from the system, the member's retirement shall be voided and the member shall repay to the system or plan all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that qualifies for participation in a position that is considered a regular full-time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:~~

~~1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and~~

~~2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of KRS 6.525, 21.374, 61.5955, or 61.5956;~~

~~(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed with an agency participating in the systems administered by the Kentucky Retirement Systems after a one (1) month period following the member's initial retirement date from the system,~~

the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment; and

3. The employer shall pay the employer normal cost contributions as specified by KRS 61.565(1)(b) and 61.702 on all creditable compensation earned by the employee during the period of regular full-time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf for the period of regular full-time reemployment and shall be used to pay down the unfunded liability of the systems;

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer for which the retired member is performing volunteer services;

2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and

4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services, and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;

(f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:

1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or

2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body; and

~~(g) For purposes of this subsection, "regular full-time" shall mean any position that requires an average of one hundred (100) or more hours per month over a calendar or fiscal year basis, except that in the case of classified school board employees it shall be more than one hundred (100) days of work during the fiscal year. Interim, temporary, or seasonal positions as defined and time limited by KRS 61.510(21) or 78.510(21) shall not be considered regular full-time; and~~

~~(h) Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, an individual who retires and begins drawing a retirement allowance from one (1) or more of the systems or plans administered by the Teachers' Retirement System or the Judicial Form Retirement System on or after January 1, 2019, who is reemployed with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems, shall not be eligible to earn benefits in the Kentucky Employees Retirement System, County Employees Retirement System, or the State Police Retirement System for reemployment that occurs on or after January 1, 2019.~~]

Signed by Governor March 26, 2019.

CHAPTER 162

(HB 415)

AN ACT relating to child support.

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

➔Section 1. KRS 205.721 is amended to read as follows:

(1) All services available to individuals receiving public assistance under Title IV-A of the Federal Social Security Act benefits shall also be available to individuals not receiving public assistance benefits, upon application by the individual with the cabinet.

(2) The cabinet shall continue to provide IV-D services when a family ceases to receive public assistance without requiring a formal application and without payment of the application fee specified in subsection (3) of this section. IV-D services shall be discontinued upon the request of the recipient.

(3) Except as provided in subsection (2) of this section, the cabinet may charge an application fee for the services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.

(4) The cabinet shall impose an annual fee of ***thirty-five dollars ($35)***~~[twenty-five dollars ($25)]~~ pursuant to ***42 U.S.C. sec. 654***~~[Public Law 109-171, Section 7310]~~, which shall be satisfied by withholding the fee from a child support disbursement.

➔Section 2. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, retirement and pension funds, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to public assistance as defined under Title IV-A of the Federal Social Security Act, and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and

necessary expenses required for self-employment or business operation. Straight-line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is ***incarcerated,*** physically or mentally incapacitated**,** or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include, but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(g) "Combined monthly adjusted parental gross income" means the combined monthly gross incomes of both parents, less any of the following payments made by the parent:

1. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;

2. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and

3. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(h) "Split custody arrangement" means a situation where each parent is the residential custodian for one (1) or more children for whom the parents share a joint legal responsibility.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their combined monthly adjusted parental gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) The child support obligation in a split custody arrangement shall be calculated in the following manner:

(a) Two (2) separate child support obligation worksheets shall be prepared, one (1) for each household, using the number of children born of the relationship in each separate household, rather than the total number of children born of the relationship.

(b) The nonresidential custodian with the greater monthly obligation amount shall pay the difference between the obligation amounts, as determined by the worksheets, to the other parent.

(7) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
$ 0	$ 60	$ 60	$ 60	$ 60	$ 60	$ 60
100	60	60	60	60	60	60
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000	195	303	325	330	335	340
1,100	212	324	384	389	394	399
1,200	229	346	433	446	451	456
1,300	246	367	460	504	510	515
1,400	262	392	491	554	576	582
1,500	277	417	522	588	642	650
1,600	293	437	548	618	674	717
1,700	308	458	574	647	706	755
1,800	322	478	599	675	736	788
1,900	336	495	620	699	763	816
2,000	350	512	642	723	789	844
2,100	364	529	663	747	815	872
2,200	376	546	684	771	841	900
2,300	389	563	706	795	868	928
2,400	401	580	727	819	894	956
2,500	413	597	749	843	920	984
2,600	424	614	770	867	946	1,012
2,700	435	630	790	889	970	1,038
2,800	445	646	809	911	994	1,064
2,900	455	662	829	934	1,019	1,090
3,000	465	677	849	956	1,043	1,116

3,100	475	693	868	978	1,067	1,142
3,200	485	709	888	1,001	1,092	1,168
3,300	495	725	908	1,023	1,116	1,194
3,400	506	741	928	1,045	1,140	1,220
3,500	516	757	947	1,067	1,164	1,246
3,600	526	773	967	1,090	1,189	1,272
3,700	536	790	988	1,113	1,215	1,299
3,800	548	808	1,011	1,139	1,243	1,329
3,900	559	826	1,033	1,164	1,270	1,359
4,000	571	844	1,056	1,190	1,298	1,388
4,100	580	862	1,078	1,215	1,326	1,418
4,200	592	880	1,101	1,240	1,353	1,448
4,300	603	898	1,123	1,266	1,381	1,477
4,400	615	916	1,146	1,291	1,409	1,507
4,500	626	933	1,161	1,316	1,435	1,535
4,600	636	949	1,181	1,338	1,459	1,561
4,700	647	964	1,200	1,360	1,483	1,586
4,800	657	980	1,220	1,381	1,507	1,612
4,900	667	995	1,239	1,403	1,531	1,637
5,000	676	1,010	1,257	1,424	1,554	1,661
5,100	686	1,025	1,275	1,444	1,576	1,685
5,200	695	1,039	1,294	1,465	1,599	1,709
5,300	705	1,054	1,312	1,486	1,621	1,733
5,400	714	1,069	1,330	1,506	1,644	1,757
5,500	724	1,083	1,348	1,527	1,666	1,781
5,600	733	1,098	1,367	1,548	1,689	1,805
5,700	743	1,113	1,385	1,568	1,712	1,829
5,800	753	1,127	1,403	1,589	1,734	1,853
5,900	762	1,142	1,421	1,610	1,757	1,877
6,000	772	1,157	1,440	1,630	1,779	1,901
6,100	781	1,171	1,458	1,651	1,802	1,926
6,200	791	1,186	1,476	1,672	1,824	1,950
6,300	800	1,198	1,498	1,690	1,844	1,970
6,400	808	1,209	1,511	1,705	1,860	1,988
6,500	816	1,219	1,524	1,720	1,876	2,005
6,600	823	1,230	1,538	1,735	1,893	2,023
6,700	830	1,240	1,551	1,750	1,909	2,040
6,800	837	1,251	1,564	1,764	1,925	2,058
6,900	844	1,261	1,577	1,779	1,942	2,075

7,000	851	1,272	1,591	1,794	1,958	2,093
7,100	858	1,282	1,604	1,809	1,975	2,110
7,200	865	1,293	1,617	1,824	1,991	2,127
7,300	872	1,303	1,630	1,839	2,007	2,145
7,400	879	1,313	1,644	1,854	2,024	2,162
7,500	885	1,324	1,657	1,869	2,040	2,179
7,600	891	1,333	1,668	1,881	2,053	2,194
7,700	896	1,342	1,679	1,893	2,066	2,208
7,800	901	1,350	1,691	1,905	2,079	2,223
7,900	907	1,359	1,702	1,917	2,093	2,238
8,000	912	1,368	1,713	1,929	2,106	2,252
8,100	917	1,377	1,724	1,941	2,119	2,267
8,200	922	1,386	1,736	1,953	2,133	2,281
8,300	928	1,395	1,747	1,965	2,146	2,296
8,400	933	1,404	1,758	1,977	2,159	2,311
8,500	938	1,413	1,769	1,989	2,173	2,325
8,600	944	1,421	1,780	2,002	2,186	2,340
8,700	949	1,430	1,792	2,014	2,199	2,354
8,800	954	1,437	1,800	2,024	2,210	2,366
8,900	958	1,444	1,809	2,033	2,220	2,376
9,000	962	1,450	1,817	2,042	2,230	2,387
9,100	966	1,457	1,825	2,052	2,241	2,398
9,200	971	1,463	1,833	2,061	2,251	2,408
9,300	975	1,470	1,842	2,070	2,261	2,419
9,400	979	1,476	1,850	2,079	2,271	2,430
9,500	983	1,483	1,858	2,089	2,281	2,440
9,600	988	1,489	1,866	2,098	2,291	2,451
9,700	992	1,496	1,874	2,107	2,301	2,461
9,800	996	1,502	1,883	2,117	2,311	2,472
9,900	1,000	1,508	1,891	2,126	2,321	2,483
10,000	1,005	1,515	1,899	2,165	2,331	2,493
10,400	1,022	1,541	1,932	2,202	2,372	2,536
10,500	1,027	1,548	1,940	2,212	2,382	2,546
10,600	1,032	1,554	1,948	2,221	2,392	2,557
10,700	1,036	1,561	1,956	2,230	2,402	2,567
10,800	1,040	1,567	1,965	2,240	2,412	2,578
10,900	1,044	1,573	1,973	2,249	2,422	2,589
11,000	1,049	1,580	1,981	2,258	2,432	2,599
11,100	1,053	1,587	1,989	2,268	2,443	2,610

11,200	1,058	1,593	1,997	2,277	2,453	2,620
11,300	1,062	1,600	2,005	2,286	2,463	2,631
11,400	1,066	1,606	2,013	2,295	2,473	2,642
11,500	1,070	1,613	2,021	2,305	2,483	2,652
11,600	1,075	1,619	2,029	2,314	2,493	2,663
11,700	1,079	1,626	2,037	2,323	2,503	2,673
11,800	1,084	1,633	2,046	2,333	2,513	2,684
11,900	1,088	1,639	2,054	2,342	2,523	2,695
12,000	1,093	1,646	2,062	2,351	2,533	2,705
12,100	1,097	1,653	2,070	2,361	2,544	2,716
12,200	1,102	1,659	2,078	2,370	2,554	2,726
12,300	1,106	1,666	2,086	2,379	2,564	2,737
12,400	1,110	1,672	2,094	2,388	2,574	2,748
12,500	1,114	1,679	2,102	2,398	2,584	2,758
12,600	1,119	1,685	2,110	2,407	2,594	2,769
12,700	1,123	1,692	2,118	2,416	2,604	2,779
12,800	1,128	1,699	2,127	2,426	2,614	2,790
12,900	1,132	1,705	2,135	2,435	2,624	2,801
13,000	1,137	1,712	2,143	2,444	2,634	2,811
13,100	1,141	1,719	2,151	2,454	2,645	2,822
13,200	1,146	1,725	2,159	2,463	2,665	2,832
13,300	1,150	1,732	2,167	2,472	2,665	2,843
13,400	1,154	1,738	2,175	2,481	2,675	2,854
13,500	1,158	1,745	2,183	2,491	2,685	2,864
13,600	1,163	1,751	2,191	2,500	2,695	2,875
13,700	1,167	1,758	2,199	2,509	2,705	2,885
13,800	1,172	1,765	2,208	2,519	2,715	2,896
13,900	1,176	1,771	2,216	2,528	2,725	2,907
14,000	1,181	1,778	2,224	2,537	2,735	2,917
14,100	1,185	1,785	2,232	2,547	2,746	2,928
14,200	1,190	1,791	2,240	2,556	2,756	2,938
14,300	1,194	1,798	2,248	2,565	2,766	2,949
14,400	1,198	1,804	2,256	2,574	2,776	2,960
14,500	1,202	1,811	2,264	2,584	2,786	2,970
14,600	1,207	1,817	2,272	2,593	2,796	2,981
14,700	1,211	1,824	2,280	2,602	2,806	2,991
14,800	1,216	1,831	2,289	2,612	2,816	3,002
14,900	1,220	1,837	2,297	2,621	2,826	3,013
15,000	1,225	1,844	2,305	2,630	2,836	3,023

➔Section 3. KRS 403.215 is amended to read as follows:

After July 15, 1990, any new or modified order or decree which contains provisions for the support of a minor child or minor children, shall provide for a wage assignment which shall begin immediately except for good cause shown, and which shall be paid based upon the payment schedule of wages of the employer to whom the wage assignment is directed, and at a minimum, on a monthly basis. If good cause is shown, the wage assignment shall take effect when an arrearage accrues that is equal to the amount of support payable for one (1) month, pursuant to KRS 405.465. ***Notice of all orders providing for wage assignment issued in Kentucky on or after January 1, 1994, shall be sent to the employer using the federally approved Income Withholding for Support (IWO) form that contains the accompanying OMB number.***

➔Section 4. KRS 405.467 is amended to read as follows:

(1) All support orders issued by the Cabinet for Health and Family Services, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.

(2) In any case in which a support order was issued in the state and in which a parent is required to pay court-ordered or administratively determined child support, medical support, maintenance, and medical support insurance, and wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any, without the need for a judicial or administrative hearing.

(3) ***If a court-ordered arrearage repayment amount does not exist and an arrearage accrues that is equal to the amount of support payable for one (1) month, an arrearage repayment amount may be determined administratively. The cabinet shall promulgate administrative regulations establishing the guidelines for arrearage payments.***

(4) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer, without the need for a judicial or administrative hearing.

(5)~~[(4)]~~ The cabinet shall advise the obligated parent that a wage withholding has commenced by sending a copy of the order to withhold at the same time that the order is sent to the employer. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will continue.

(6)~~[(5)]~~ The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.

(7)~~[(6)]~~ The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

(8)~~[(7)]~~ If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court,

or family court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.

(9) ~~[(8)]~~ If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively ordered or judicially ordered medical support obligation.

(10) ~~[(9)]~~ The employer shall forward to the Cabinet for Health and Family Services that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered.

(11) ~~[(10)]~~ The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(12) ~~[(11)]~~ Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.

(13) ~~[(12)]~~ No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(14) ~~[(13)]~~ The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(15) ~~[(14)]~~ Interstate requests for withholding of earnings shall be processed by the cabinet.

Signed by Governor March 26, 2019.

CHAPTER 163

(HB 399)

AN ACT relating to children of military families.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 159 IS CREATED TO READ AS FOLLOWS:

(1) A child of a military family may pre-enroll or participate in pre-admission in a school district if the parent or guardian of the child is transferred to or is pending transfer to a military installation within the state while on active military duty pursuant to an official military order.

(2) A school district shall accept an application for enrollment and course registration by electronic means for a child who meets the requirements set forth in subsection (1) of this section, including enrollment in a specific school or program within the school district.

(3) The parent or guardian of a child who meets the requirements set forth in subsection (1) of this section shall provide proof of residence to the school district within ten (10) days after the arrival date provided on official documentation. The parent or guardian may use, as proof of residence, the address of:

(a) A temporary on-post billeting facility;

(b) A purchased or leased home or apartment; or

(c) Any federal government housing or off-post military housing, including off-post military housing that may be provided through a public-private venture.

(4) A child who utilizes this section shall not, until actual attendance or enrollment in the school district:

(a) Count for the purposes of average daily attendance as defined in KRS 157.320 or KRS 157.350;

(b) Be charged tuition pursuant to KRS 158.120; or

(c) Be included in the state assessment and system pursuant to KRS 158.6453 or 158.6455.

Signed by Governor March 26, 2019.

CHAPTER 164

(HB 397)

AN ACT relating to county sheriffs' fees.

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

➔Section 1. KRS 64.090 is amended to read as follows:

(1) Sheriffs may charge and collect the following fees from the Commonwealth and any of its agencies, including the Department of Kentucky State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of Kentucky State Police makes a request that the sheriff perform any of the following:

(a) Executing and returning process.....$20.00;

(b) Serving an order of court and return 3.00;

(c) Summoning or subpoenaing each witness, fee to be paid by requester to sheriff before service 10.00;

(d) Summoning an appraiser or reviewer 2.00;

(e) Attending a surveyor, when ordered by a court, per deputy or sheriff assigned 20.00;

(f) Taking any bond that he is authorized or required to take in any action 5.00;

(g) Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six percent (6%) on the first three hundred dollars ($300) and three percent (3%) on the residue; when he or she levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case;

(h) Taking a recognizance of a witness 3.00;

(i) Levying an attachment 5.00;

(j) When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court;

(k) Summoning a garnishee 3.00;

(l) Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted 8.00;

(m) Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff 30.00;

(n) Serving an order or process of revivor 3.00;

(o) Executing a writ of possession against each tenant or defendant 7.00;

(p) Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission;

(q) Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses 8.00;

(r) Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;

(s) Levying for a fee-bill 3.00;

(t) Serving a notice 2.00;

(u) Serving summons, warrants or process of arrest in cases of children born out of wedlock 6.00;

(v) Serving a civil summons in a nonsupport case 10.00;

(w) Serving each order appointing surveyors of roads, to be paid out of the county levy 5.00;

(x) Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant 5.00;

(y) Like services in cases of private passways to be paid by the applicant 5.00;

(z) Executing each writ of habeas corpus, to be paid by the petitioner 3.00;

(aa) All services under a writ issued under KRS 381.460 to 381.570 .....10.00;

(bb) Fingerprinting persons for professional, trade, or commercial purposes, or for personal use, per set of impressions.....10.00;

(cc) Taking or copying photographs for professional, trade, or commercial purposes, or for personal use, per photograph .....5.00; and

(dd) For services in summoning grand and petit jurors and performing his or her duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

(2) Sheriffs ***shall***~~[may]~~ charge and collect a fee of ***sixty***~~[forty]~~ dollars ***($60)***~~[($40)]~~ from any person not requesting the service of the sheriff on behalf of the Commonwealth, any of its agencies, or the Department of Kentucky State Police for the services provided in subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.

Signed by Governor March 26, 2019.

CHAPTER 165

(HB 396)

AN ACT relating to the expansion of health insurance options within Kentucky.

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

➔Section 1. KRS 304.17A-005 (Effective July 1, 2019) is amended to read as follows:

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

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "At the time of enrollment" means:

(a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and

(b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(4) "Basic health benefit plan" means any plan offered to an individual, a small group, or employer-organized association that limits coverage to physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist. Chiropractic benefits may be offered by providers licensed pursuant to KRS Chapter 312;

(5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(7) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(8)~~[(a)]~~ "Creditable coverage"***:***

(a) Means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10, United States Code, including medical and dental care for members and certain former members of the uniformed services, and for their dependents; for purposes of Chapter 55 of Title 10, United States Code, "uniformed services" means the Armed Forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5, United States Code, such as the Federal Employees Health Benefit Program;

9. A public health plan as established or maintained by a state, the United States government, a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan;

10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)); or

11. Title XXI of the Social Security Act, such as the State Children's Health Insurance Program***; and***~~[.]~~

(b) ~~[This term]~~Does not include coverage consisting solely of coverage of excepted benefits as defined in~~[subsection (14) of]~~ this section;

(9) "Dependent" means any individual who is or may become eligible for coverage under the terms of an individual or group health benefit plan because of a relationship to a participant;

(10) "Employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan as defined by ERISA;

(11) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(12) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled;~~[or]~~

(c) Any entity ***or association of employers, which has been actively in existence for at least two (2) years, formed under the Employee Retirement Income Security Act, 29 U.S.C. sec. 1001 et seq., to provide an employee welfare benefit plan under guidance issued by the United States Department of Labor prior to the issuance of 29 C.F.R. sec. 2510.3-5***~~[that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers]~~, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation***; and***

(d) Any entity or association of employers, which has been actively in existence for at least two (2) years, formed under the Employee Retirement Income Security Act, 29 U.S.C. sec. 1001 et seq., to provide an employee welfare benefit plan, whose members consist of employers or a group of employers that satisfy the requirements of 29 C.F.R. sec. 2510.3-5.

Except as provided in ***Section 2 of this Act and*** KRS 304.17A-200~~[, 304.17A.210,]~~ and 304.17A-220, and except as otherwise provided by the definition of "large group" contained in~~[subsection (30) of]~~ this section, an employer-organized association shall not be treated as an association, small group, or large group under this subtitle, ***except***~~[provided]~~ that an employer-organized association~~[that is a bona fide association]~~ as defined ***under paragraph (c) or (d) of this***~~[in]~~ subsection~~[(5) of this section]~~ shall be treated as a large group under this subtitle;

(13) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(14) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, including accidental death and dismemberment, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan; and

(q) Health flexible spending arrangements;

(15) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(16) "Group health plan" means a plan, including a self-insured plan, of or contributed to by an employer, including a self-employed person, or employee organization, to provide health care directly or otherwise to the employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families;

(17) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;

(18) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;

(19) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(20) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:

1. Waived coverage under KRS 304.17A-210(2); or

2. Did not elect family coverage that was available through the association or group market;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(22) "Health benefit plan"***:***

(a) Shall include~~[Means]~~ any***:***

1. Hospital or medical expense policy or certificate;

2. Nonprofit hospital, medical-surgical, and health service corporation contract or certificate;

3. Provider sponsored integrated health delivery network;

4. ~~[a]~~Self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA;

5. Self-insured governmental plan or church plan;

6. Health maintenance organization contract; or

7. ~~[any]~~Health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky***;***~~[,]~~ and

(b) Does not include***:***

1. Policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement~~[policy]~~, long-term care, Medicare supplement, specified disease, ***or*** vision care***;***~~[,]~~

2. Coverage issued as a supplement to liability insurance***;***~~[,]~~

3. Insurance arising out of a workers' compensation or similar law***;***~~[,]~~

4. Automobile medical-payment insurance***;***~~[,]~~

5. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance***;***~~[,]~~

6. Short-term ***limited duration*** coverage***;***~~[,]~~

7. Student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure***;***~~[,]~~

8. Medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract***;***~~[, or]~~

9. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code***;*** ~~[, or]~~

10. Limited health service benefit plans***;*** ~~[,]~~ or

11. Direct primary care agreements established under KRS 311.6201, 311.6202, 314.198, and 314.199;

(23) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, a pharmacist as defined pursuant to KRS Chapter 315, or home medical equipment and services provider as defined pursuant to KRS 309.402, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Advanced practice registered nurses licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(24) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(25) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(26) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan. The individual market includes an association plan that is not employer related, issued to individuals on an individually underwritten basis, other than an employer-organized association or a bona fide association~~[, that has been organized and is maintained in good faith for purposes other than obtaining insurance for its members and that has a constitution and bylaws]~~;

(27) "Insurer" means any insurance company; health maintenance organization; self-insurer***, including a governmental plan, church plan,*** or multiple employer welfare arrangement***,*** not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(28) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(29) "Kentucky Access" has the meaning provided in KRS 304.17B-001~~[(17)]~~;

(30) "Large group" means:

(a) An employer with fifty-one (51) or more employees;

(b) An affiliated group with fifty-one (51) or more eligible members; or

(c) ***A fully-insured*** ~~[An]~~ employer-organized association ***as defined in subsection (12)(c) or (d) of this section*** that***:***

1. Covers at least fifty-one (51) employee members; and

2. Is registered with the department pursuant to administrative regulations promulgated by the commissioner ~~[is a bona fide association as defined in subsection (5) of this section]~~;

(31) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(32) "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(33) "Participant" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of the employer or members of the organization, or whose beneficiaries may be eligible to receive any benefit as established in Section 3(7) of ERISA;

(34) "Preventive services" means medical services for the early detection of disease that are associated with substantial reduction in morbidity and mortality;

(35) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(36) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(37) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(38) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(39) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(40) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(41) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(42) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members;

(43) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and

(44) "Telehealth":

(a) Means the delivery of health care-related services by a health care provider who is licensed in Kentucky to a patient or client through a face-to-face encounter with access to real-time interactive audio and video technology or store and forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the patient's or client's medical history prior to the telehealth encounter;

(b) Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and

(c) Shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.

➔Section 2. KRS 304.17A-0954 is amended to read as follows:

(1)~~[For purposes of this section:~~

~~(a) "Base premium rate" has the meaning provided in KRS 304.17A-005;~~

~~(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;~~

~~(c) "Employer-organized association" means any of the following:~~

~~1. Any entity which was qualified by the commissioner as an eligible association prior to April 10, 1998, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;~~

~~2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or~~

~~3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;~~

~~(d) "Index rate" has the meaning provided in KRS 304.17A-005.~~

~~(2)]~~ Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection ***(2)***~~[(3)]~~ of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan.~~[Without the written consent of the employer organized association filed with the commissioner, the index rate for the employer organized association shall be calculated solely with respect to that employer organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.]~~

(2)~~[(3)]~~ The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized ***association*** health insurance plan ***issued to an employer-organized association as defined in subsection (12)(a) to (c) of Section 1 of this Act***:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than fifty percent (50%) of its own index rate;~~[and]~~

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period shall not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual***;***~~[.]~~

(c)~~[(4)]~~ In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area***; and***~~[.]~~

(d) Unless the written consent of the employer-organized association is filed with the department, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3)~~[(5)]~~ For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

➔Section 3. KRS 304.17A-808 is amended to read as follows:

A proposed self-insured employer-organized association group shall file with the commissioner an application for a certificate of filing accompanied by a nonrefundable filing fee of ***five hundred dollars ($500)***~~[five dollars ($5)]~~. Each application for a certificate of filing shall be submitted to the commissioner upon a form prescribed by the commissioner and shall set forth or be accompanied by:

(1) The group's name, location of its principal office, date of organization, and identification of its fiscal year. The application shall also include the name and address of each member if known at the time of application. If this information is unknown, a description of the group to be solicited for membership shall be included;

(2) A copy of the articles of association or governance documents;

(3) A copy of agreements with the administrator and with any service company;

(4) A copy of the bylaws of the proposed group;

(5) Certification of the group's financial solvency as set forth in KRS 304.17A-812;

(6) Designation of the initial board of trustees and administrator;

(7) The address where books and records of the group will be maintained at all times; and

(8) A statement describing the self-insured employer-organized association which shall include:

(a) The health services to be offered;

(b) The financial risks to be assumed;

(c) The initial geographic area to be served;

(d) Pro forma financial projections for the first three (3) years of operation, including the assumptions the projections are based upon;

(e) The sources of working capital and funding;

(f) A description of the persons to be covered by the self-insured employer-organized association;

(g) Any proposed reinsurance arrangements;

(h) Any proposed management, administrative, or cost-sharing arrangements; and

(i) A description of the self-insured employer-organized association's proposed method of marketing.

➔Section 4. KRS 304.17A-812 is amended to read as follows:

(1) This section applies to a group applying for and holding a certificate of filing as a self-insured employer-organized association group.

(2) To obtain and to maintain its certificate of filing, a self-insured employer-organized association group shall have sufficient financial strength to pay all public or professional liabilities covered by the group, including known claims and expenses and incurred but unreported claims and expenses.

(3) The commissioner shall require the following of a self-insured employer-organized association group:

(a) An actuarial certification by a member of the American Academy of Actuaries of the adequacy of the proposed rates funding arrangements of the group;

(b) Specific reinsurance ensuring the solvency of the funding arrangement;

(c) A demonstration of capital and surplus as follows:

1. Initial financial requirements. Every self-insured employer-organized association shall demonstrate initial capital and surplus equal to the greater of:

a. Five hundred thousand dollars ($500,000);

b. Two percent (2%) of projected annual contribution revenues on the first one hundred fifty million dollars ($150,000,000) of contributions and one percent (1%) of projected annual contributions on the contributions in excess of one hundred fifty million dollars ($150,000,000); or

c. An amount equal to the sum of eight percent (8%) of projected annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent (4%) of projected annual hospital expenditures paid on a managed hospital payment basis***, except the initial capital and surplus shall be not required to exceed the deductibility limits provided under 26 U.S.C. secs. 419 and 419A, as amended***.

2. Continuing financial requirements. Every self-insured employer-organized association shall demonstrate ongoing capital and surplus equal to the greater of:

a. Five hundred thousand dollars ($500,000);

b. Two percent (2%) of annual contribution revenues, as reported on the most recent annual financial statement filed with the commissioner, on the first one hundred fifty million dollars ($150,000,000) of contributions and one percent (1%) of annual premiums on the contributions in excess of one hundred fifty million dollars ($150,000,000); or

c. An amount equal to the sum of eight percent (8%) of projected annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent (4%) of annual hospital expenditures paid on a managed hospital payment basis, as reported on the most recent financial statement filed with the commissioner***, except the continuing capital and surplus shall be not required to exceed the deductibility limits provided under 26 U.S.C. secs. 419 and 419A, as amended***; and

(d) A fidelity bond for the administrator and a fidelity bond for the service company in forms and amounts prescribed by the commissioner.

(4) The commissioner, if not satisfied with the financial strength of a self-insured employer-organized association group, may require any or all of the following of a self-insured employer-organized association group:

(a) Security in the form and amount prescribed by the commissioner as follows:

1. A surety bond issued by a corporate surety authorized to transact business in the Commonwealth of Kentucky; or

2. Any financial security endorsement issued as part of an acceptable excess insurance contract issued by an authorized insurer, which may be used to meet all or part of the security requirement.

The bond or financial security endorsement shall be solely for the benefit of the insured creditors to pay claims and associated expenses and shall be payable upon the failure of the group to pay professional or public liability claims the group is legally obligated to pay. The commissioner may establish and adjust

the requirements for the amount of security based on differences among groups in their size, types of business, years in existence, or other relevant factors.

(b) Specific and aggregate excess insurance in a form and amount issued by an insurer acceptable to the commissioner.

➔Section 5. KRS 304.17A-834 is amended to read as follows:

Self-insured employer-organized association groups shall file with the commissioner their ***forms,*** rates, underwriting guidelines, evidence of coverage, and any changes therein. The filing shall be accompanied by a filing fee of five dollars ($5) per form filing.

Signed by Governor March 26, 2019.

CHAPTER 166

(HB 275)

AN ACT relating to insurance.

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

➔Section 1. KRS 304.9-105 is amended to read as follows:

(1) An individual applying for an agent license shall make application to the commissioner on the uniform individual application or other application prescribed by the commissioner. Before approving the application, the commissioner shall find that the applicant:

(a) Is at least eighteen (18) years of age;

(b) Has fulfilled the residence requirements as set forth in KRS 304.9-120 or is a nonresident who is not eligible to be issued a license in accordance with KRS 304.9-140;

(c) Has not committed any act that is a ground for denial, suspension, or revocation set forth in KRS 304.9-440;

(d) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;

(e) Is competent to exercise the license and has:

1. Except for variable life and variable annuities line of authority and limited lines of authority identified in KRS 304.9-230, completed a prelicensing course of study consisting of forty (40) hours for life and health, forty (40) hours for property and casualty, or twenty (20) hours for each line of authority, as applicable, for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section;

2. Except for variable life and variable annuities line of authority and limited lines of authority identified in accordance with KRS 304.9-230, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied; and

3. Paid the fees set forth in KRS 304.4-010; and

(f) Is financially responsible to exercise the license and has maintained in effect while so licensed:

1. The certificate of an insurer~~[authorized to write legal liability insurance in this state]~~, that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than twenty thousand dollars ($20,000) and one hundred thousand dollars ($100,000) in the aggregate for all occurrences within one (1) year;

2. A cash surety bond executed by an insurer~~[authorized to write business in this Commonwealth]~~, in the sum of twenty thousand dollars ($20,000), which shall be subject to lawful levy of

execution by any party to whom the licensee has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as an agent; or

3. An agreement by an~~[authorized]~~ insurer or group of affiliated insurers for which he or she is or is to become an exclusive agent whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent on behalf of the insurer or group of affiliated insurers in the sum of twenty thousand dollars ($20,000) for any single occurrence and that the agreement shall not be terminated until the license is surrendered to the commissioner.

(2) The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.

➔Section 2. KRS 304.9-120 is amended to read as follows:

(1) Each applicant for license as a resident licensee shall be qualified to designate and shall designate Kentucky as the applicant's home state at the date of application for the license and shall maintain that eligibility throughout the duration of the license.

(2) ***Except as provided in subsection (3) of this section,*** in determining the good faith of an applicant's claim that Kentucky is the applicant's principal place of residence, the commissioner may give due consideration to the following:

(a) The amount of time actually spent by the applicant within this state during the claimed residence period;

(b) The circumstances of the applicant's residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home, or other temporary or transient type of dwelling or accommodation;

(c) The circumstances of the applicant, his or her past history and activities, and the probability that he or she will continue as a resident of this state indefinitely into the future if the license were to be issued; and

(d) All other pertinent factors.

(3) (a) An applicant for a license under KRS 304.9-230(1)(b) shall be qualified to designate Kentucky as the applicant's home state for the purpose of obtaining that license if:

1. The applicant has a home state that does not issue a license to sell, solicit, and negotiate travel insurance; and

2. The applicant has otherwise met the requirements for the license in accordance with this subtitle.

(b) For purposes of this subsection:

1. The commissioner shall offer the applicant an opportunity to complete any prelicensing courses of instruction and examination required under KRS 304.9-230(2) online; and

2. The applicant shall not hold resident licenses for two (2) or more states.

➔Section 3. KRS 304.35-040 is amended to read as follows:

(1) The Reinsurance Association shall be governed by a committee~~[consisting]~~ of seven (7) persons to be appointed by the commissioner of insurance***, which shall consist of the following:***~~[. The commissioner shall appoint]~~

(a) One (1) person~~[two (2) persons]~~ representing ***an insurer***~~[insurers]~~ chartered under the laws of the Commonwealth of Kentucky***;***~~[,]~~

(b) One (1) person representing an insurer that is neither chartered under the laws of the Commonwealth of Kentucky nor affiliated with one (1) of the national insurance trade associations***;***~~[,]~~

(c) Three (3) persons from insurance trade organizations~~[One (1) person]~~ representing ***insurers of various interests;***~~[an insurer from each of the following three (3) associations: American Insurance Association, National Association of Mutual Insurance Companies, the Property Casualty Insurers Association of America, and]~~

(d) One (1) licensed insurance agent***; and***

(e) One (1) person that meets the requirements of paragraph (a), (b), (c), or (d) of this subsection.

(2) The "FAIR" plan shall maintain a formulated plan and articles consistent with this subtitle. The governing committee of the association may, on its own initiative or shall at the request of the commissioner, amend the plan and articles, subject to approval by the commissioner.

(3) The governing committee of the association shall, on or before April 1 of each year, file with the commissioner, on such forms as the commissioner requires, an accounting of the plan's operations during the preceding calendar year together with its financial condition, and its underwriting experience as to each separate account maintained therein, as of the end of such year. The commissioner may require interim accountings on a quarterly basis or examine the affairs of the association when, in his or her opinion, such action is necessary to determine the continued solvency of the Reinsurance Association.

(4) If at any time the commissioner determines that the Reinsurance Association is or may become unable to meet its financial obligations during the current year, the commissioner shall order the governing committee to levy appropriate assessments within the limitations of KRS 304.35-030(1) against all members.

➔Section 4. KRS 417.050 is amended to read as follows:

A written agreement to submit any existing controversy to arbitration or a provision in written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law for the revocation of any contract. This chapter does not apply to:

(1) Arbitration agreements between employers and employees or between their respective representatives;~~[and]~~

(2) Insurance contracts. Nothing in this subsection shall be deemed to invalidate or render unenforceable contractual arbitration provisions between two (2) or more insurers, including reinsurers***; and***

(3) Arbitration agreements entered by any industrial insured captive insurer that is created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. secs. 3901 et seq., as amended.

➔Section 5. The following KRS sections are repealed:

304.9-460 Return of license to commissioner.

304.15-175 Notice by insurer of paid-up life insurance policy.

Signed by Governor March 26, 2019.

CHAPTER 167

(HB 274)

AN ACT relating to conservation officers.

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

➔Section 1. KRS 150.010 is amended to read as follows:

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

(1) "Angling" means the taking or attempting to take fish by hook and line in hand, rod in hand, jugging, setline, or sport fishing trotline;

(2) "Buy" includes offering to buy, acquiring, or possessing through purchase, barter, exchange, or trade;

(3) "Commercial trotline" means a line to which are attached more than fifty (50) single or multibarbed baited hooks, which shall not be placed closer than eighteen (18) inches;

(4) "Commission" means the Department of Fish and Wildlife Resources Commission;

(5) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources;

(6) ***"Conservation officer" means any member of the Kentucky Department of Fish and Wildlife Resources Law Enforcement Division, pursuant to Section 2 of this Act, who possesses the powers of a peace officer;***

(7) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset;

(8) ~~[(7)]~~ "Device" means any article, instrument, or equipment of whatever nature or kind which may be used to take wild animals, wild birds, or fishes;

(9) ~~[(8)]~~ "Department" means the Department of Fish and Wildlife Resources;

(10) ~~[(9)]~~ "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not;

(11) ~~[(10)]~~ "Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object;

(12) ~~[(11)]~~ "Grabbing" means the taking of fish, frogs, or turtles directly by hand or with the aid of a handled hook;

(13) ~~[(12)]~~ "Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not;

(14) ~~[(13)]~~ "Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator;

(15) ~~[(14)]~~ "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal;

(16) ~~[(15)]~~ "Jugging" means a means of fishing by which a single baited line is attached to any floating object;

(17) ~~[(16)]~~ "License" means any document issued by the department authorizing its holder to perform acts authorized by the license and includes any other form of authorization in addition to or in lieu of an actual document which may be authorized by the department by administrative regulation;

(18) ~~[(17)]~~ "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;

(19) ~~[(18)]~~ "Migratory shore or upland game birds" means all species of migratory game birds except waterfowl;

(20) ~~[(19)]~~ "Minnows" means all fish under six (6) inches in length, except basses, either largemouth, smallmouth or Kentucky; rock bass or goggle-eye; trout; crappie; walleye; sauger; pike; members of the striped bass family; and muskellunge;

(21) ~~[(20)]~~ "Navigable waters" means any waters within this state under lock and dam;

(22) ~~[(21)]~~ "Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for thirty (30) days immediately prior to his application for a license;

(23) ~~[(22)]~~ "Permit" means any document issued by the department authorizing its holder to perform acts authorized by the permit and includes tags which shall be affixed to wildlife or devices as evidence of holding a permit and includes any other form of authorization in addition to or in lieu of an actual document authorized by the department by administrative regulation;

(24) ~~[(23)]~~ "Possess" means the act of having or taking into control;

(25) ~~[(24)]~~ "Prescribed by the department" means established by an administrative regulation;

(26) ~~[(25)]~~ "Processed wildlife" means any wildlife specimen or parts thereof that have been rendered into a permanently preserved state;

(27) ~~[(26)]~~ "Protected wildlife" means all wildlife except those species declared unprotected by administrative regulations promulgated by the department;

(28) ~~[(27)]~~ "Public roadway" includes rural roads, highways, bridges, bridge approaches, city streets, viaducts, and bridges which are normally traveled by the general public and are under the jurisdiction of a state, federal, county, or municipal agency;

(29) ~~[(28)]~~ "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream;

(30) ~~[(29)]~~ "Raw fur" means a hide, fur, or pelt of a fur-bearing animal which has not been processed. Skinning, stretching, oiling, or coloring of the pelt of the animal shall not be considered processing;

(31) ~~[(30)]~~ "Administrative regulation" means a written regulation promulgated, pursuant to KRS Chapter 13A, by the commissioner with the approval of the commission;

(32) ~~[(31)]~~ "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for thirty (30) days immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational institution as full-time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state;

(33) ~~[(32)]~~ "Resist" means to ~~[point a gun at,]~~leave the scene, intimidate or attempt to intimidate in any manner, or further interfere in any manner with any officer in the discharge of his duties;

(34) ~~[(33)]~~ "Rough fish" means all species of fishes other than those species designated by administrative regulation as sport fishes;

(35) ~~[(34)]~~ "Sell" includes offering to sell, having or possessing for sale, barter, exchange, or trade;

(36) ~~[(35)]~~ "Setline" means a line to which is attached one (1) single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole, or other stationary object, on the bank of a stream or impoundment;

(37) ~~[(36)]~~ "Snagging" means the taking of fish or other aquatic animals through the use of a hand-held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait;

(38) ~~[(37)]~~ "Sports fishing trotline" means a line to which are attached no more than fifty (50) single or multibarbed baited hooks which shall not be placed closer together than eighteen (18) inches;

(39) ~~[(38)]~~ "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, snare, or capture wildlife in any way and any lesser act designed to lure, attract, or entice for these purposes; and to place, set, aim, or use any device, animal, substance, or agency which may reasonably be expected to accomplish these acts; or to attempt to do these acts or to assist any other person in the doing of or the attempt to do these acts;

(40) ~~[(39)]~~ "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and residing in a dwelling on the farms or lands including noncontiguous lands, but shall not include any other employee or tenant unless actually residing on the property and engaged or employed as above mentioned;

(41) ~~[(40)]~~ "Transport" means to carry, move, or ship wildlife from one place to another;

(42) ~~[(41)]~~ "Waterfowl" means all species of wild ducks, geese, swans, mergansers, and coots; and

(43) ~~[(42)]~~ "Wildlife" means any normally undomesticated animal, alive or dead, including without limitations any wild mammal, bird, fish, reptile, amphibian, or other terrestrial or aquatic life, whether or not possessed in controlled environment, bred, hatched, or born in captivity and including any part, product, egg, or offspring thereof, protected or unprotected by this chapter.

➔Section 2. KRS 150.090 is amended to read as follows:

(1) ***The commissioner shall appoint, promote, or take other employment actions to the ranks, grades, and positions of the department conservation officers who are considered by the commissioner to be necessary for the efficient administration of the department.***

(2) Conservation officers appointed by the commissioner shall have full powers as peace officers for the enforcement of all of the laws of the Commonwealth, ***including the administrative regulations promulgated pursuant to KRS Chapters 150 and 235 and*** ~~[except that they shall not enforce laws other than this chapter and the administrative regulations issued thereunder or]~~ to serve process~~[unless so directed by the commissioner in life threatening situations or when assistance is requested by another law enforcement agency]~~.

(3) Each conservation officer is individually vested with the powers of a peace officer and shall have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables, and police officers in their respective jurisdictions, and shall possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and police officers in any suit brought against them in consequence of acts done in the course of their employment and within the scope of their duties. Any warrant of arrest may be executed by any officer of the department.

~~[(2) The commissioner may appoint other persons to enforce only the provisions of this chapter and the administrative regulations issued thereunder. Such persons shall have the power to make arrests or issue citations only for violations of this chapter and the administrative regulations issued thereunder.~~

~~(3) All other peace officers and their deputies shall enforce the provisions of this chapter and the administrative regulations issued thereunder.]~~

(4) ***Conservation officers***~~[All persons]~~ charged with the enforcement of this chapter and the administrative regulations issued thereunder shall have the right to go upon the land of any person or persons whether private or public for the purpose of ~~[conducting research or investigation of game or fish or their habitat conditions or engage in restocking game or fish or in any type of work involved in or incident to game and fish restoration projects or their enforcement or in]~~the enforcement of laws or orders of the department relating to game or fish, while in the normal, lawful and peaceful pursuit of such investigation or work or enforcement, may enter upon, cross over, be upon, and remain upon privately owned lands for such purposes, and shall not be subject to arrest for trespass while so engaged or for such cause thereafter. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting with or without process any person found by them violating any of the provisions of this chapter and may seize without process anything declared by this chapter to be contraband. No liability shall be incurred by any person charged or directed in the enforcement of this chapter.

(5) Conservation officers and other officers charged with the enforcement of this chapter, shall have the authority to call for and inspect the license or tag, bag or creel of any person engaged in any activity for the performance of which a license is required under this chapter, and shall also have the authority to take proper identification of any person, or hunter, or fisherman who is actually engaged in any of these activities, and to call for and inspect any and all firearms and any other device that may be used in taking wildlife and is in the possession of any person so engaged.

(6) No person shall resist, obstruct, interfere with or threaten or attempt to intimidate or in any other manner interfere with any officer in the discharge of his duties under the provisions of this chapter. This subsection shall not apply to a criminal homicide or an assault upon such officer. An assault upon such officer shall be deemed an offense under KRS Chapter 507 or 508, as appropriate.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) Any conservation officer who is sued for any act or omission in the line of duty and who has a judgment for monetary damages rendered against him or her in his or her individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded pursuant thereto, shall be indemnified by the Commonwealth, from funds appropriated to the fish and game fund for the payment of judgments, to the extent of his or her actual financial loss.

(2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission which resulted in liability was within the scope and course of employment of the conservation officer, and occurred during the performance of duty, and was committed or omitted in the good faith belief that the act or omission was lawful and proper.

(3) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the conservation officer and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.

➔Section 4. KRS 15.460 is amended to read as follows:

(1) (a) Except as provided in subsection (4)(a) of this section, an eligible unit of government shall be entitled to receive an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs. The supplement amount shall be increased to four thousand dollars ($4,000) beginning July 1, 2018.

(b) 1. In addition to the supplement, the unit of government shall receive an amount equal to the required employer's contribution on the supplement to the retirement plan and duty category to which the officer belongs. In the case of County Employees Retirement System membership, the retirement plan contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage.

2. The unit of government shall pay the amount received for retirement plan coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement.

3. If the foundation program funds are insufficient to pay employer contributions to the system, then the total amount available for retirement plan payments shall be prorated to each eligible government so that each receives the same percentage of required retirement plan costs attributable to the cash salary supplement.

(c) 1. In addition to the payments received under paragraphs (a) and (b) of this subsection, but only if sufficient funds are available to make all payments required under paragraph (b) of this subsection, each unit of government shall receive an administrative expense reimbursement in an amount equal to seven and sixty-five one-hundredths percent (7.65%) of the total annual supplement received greater than three thousand one hundred dollars ($3,100) for each qualified police officer that is a local officer as defined in KRS 15.420(2)(a)1. that it employs, subject to the cap established by subparagraph 3. of this paragraph.

2. The unit of government may use the moneys received under this paragraph in any manner it deems necessary to partially cover the costs of administering the payments received under paragraph (a) of this subsection.

3. The total amount distributed under this paragraph shall not exceed the total sum of five hundred twenty-five thousand dollars ($525,000) for each fiscal year. If there are insufficient funds to provide for full reimbursement as provided in subparagraph 1. of this paragraph, then the amount shall be distributed pro rata to each eligible unit of government so that each receives the same percentage attributable to its total receipt of the cash salary supplement.

(d) In addition to the payments received under paragraphs (a) and (b) of this subsection, each unit of government shall receive the associated fringe benefits costs for the total supplement of four thousand dollars ($4,000) for each qualified police officer that is a state officer as defined in KRS 15.420(2)(a)2. that it employs. Fringe benefits shall be limited to retirement plan contributions and the federal insurance contributions act tax.

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a Kentucky Department of Fish and Wildlife Resources conservation officer appointed pursuant to KRS ***150.090(2)*** ~~[150.090(1)]~~ and listed in KRS 15.420(2)(a)2.n. shall be a participant in the Kentucky Law Enforcement Foundation Program fund, but shall not receive an annual supplement from that fund. A conservation officer shall receive an annual training stipend commensurate to the annual supplement paid to the police officer as defined in KRS 15.420. The annual training stipend disbursed to a conservation officer shall be paid from the game and fish fund pursuant to KRS 150.150.

(f) Any peace officer sanctioned by the Tourism, Arts and Heritage Cabinet shall be deemed a police officer solely for the purpose of inclusion in the Law Enforcement Foundation Program fund.

(2) The supplement provided in subsection (1) of this section shall be paid by the unit of government to each police officer whose qualifications resulted in receipt of a supplemental payment. The payment shall be in addition to the police officer's regular salary and, except as provided in subsection (4)(b) of this section, shall continue to be paid to a police officer who is a member of:

(a) The Kentucky National Guard during any period of activation under Title 10 or 32 of the United States Code or KRS 38.030; or

(b) Any reserve component of the United States Armed Forces during any period of activation with the United States Armed Forces.

(3) (a) A qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) A qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon annual settlement with the fiscal court under KRS 134.192, receive that portion of the supplement that will not cause his or her compensation to exceed the maximum salary.

(c) A qualified sheriff who seeks to participate in the fund shall forward a copy of the annual settlement prepared under KRS 134.192 to the fund. The sheriff shall reimburse the fund if an audit of the annual

settlement conducted pursuant to KRS 134.192 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the annual settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) A qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his or her own budget or from the county treasurer if the sheriff pools his or her fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his or her deputies to participate in the fund.

(4) (a) Eligible units of government shall receive the salary supplement, excluding funds applicable to the employer's retirement plan contribution, provided in subsection (1) of this section for distribution to a police officer who is eligible under subsection (2) of this section.

(b) A qualified police officer receiving a salary supplement during any period of military activation, as provided in subsection (2) of this section, shall not be entitled to receive the employer's retirement plan contribution, and the salary supplement shall not be subjected to an employee's contribution to a retirement plan. The salary supplement shall otherwise be taxable for all purposes.

(5) A unit of government receiving disbursements under this section shall follow all laws applicable to it that may govern due process disciplinary procedures for its officers, but this subsection shall not be interpreted to:

(a) Authorize the department, the cabinet, or the council to investigate, judge, or exercise any control or jurisdiction regarding the compliance of a unit of government with laws that may govern due process disciplinary procedures for its officers, except as otherwise provided by laws;

(b) Create a private right of action for any police officer regarding an agency's participation in this section;

(c) Authorize a termination of an agency's participation as a result of a judgment that the unit of government failed to follow its procedures in any independent cause of action brought by the police officer against the unit of government; or

(d) Prevent the adoption, amendment, or repeal of any laws that may govern the due process disciplinary procedures of a unit of government's police officers.

➔Section 5. KRS 186.675 is amended to read as follows:

(1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(1) shall be four dollars and fifty cents ($4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) shall be nineteen dollars and fifty cents ($19.50).

(2) The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of:

(a) Boats;

(b) Luggage;

(c) Personal effects;

(d) Farm products, farm supplies, or farm equipment;

(e) All-terrain vehicles as defined in KRS 189.010(24);

(f) Wildlife as defined in KRS ***150.010(43)***~~[150.010(42)]~~ that the owner or operator of the trailer has obtained while hunting; and

(g) Firearms or other supplies used in conjunction with hunting wildlife.

(3) The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents ($9.50) except the registration fee for camping trailers, travel trailers, and truck campers shall be four dollars and fifty cents ($4.50). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar ($1).

(4) Beginning April 1, 1993, at the request of the owner, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) may be permanently registered, except the registration shall expire when the trailer or semitrailer is sold or when it is otherwise permanently removed from service by the owner. The registration fee for the period shall be ninety-eight dollars ($98). The clerk

shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of three dollars ($3).

Signed by Governor March 26, 2019.

CHAPTER 168

(HB 266)

AN ACT relating to speed limits.

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

➔Section 1. KRS 189.390 is amended to read as follows:

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

(a) "Business district" means the territory contiguous to and including a highway if, within six hundred (600) feet along the highway, there are buildings in use for business or industrial purposes that occupy three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway;

(b) "Residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is improved with residences or residences and buildings in use for business; and

(c) "State highway" means a highway or street maintained by the Kentucky Department of Highways.

(2) An operator of a vehicle upon a highway shall not drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(3) The speed limit for motor vehicles on state highways shall be as follows, unless conditions exist that require lower speed for compliance with subsection (2) of this section, or the secretary of the Transportation Cabinet establishes a different speed limit in accordance with subsection (4) of this section:

(a) Sixty-five (65) miles per hour on interstate highways and parkways;

(b) Fifty-five (55) miles per hour on all other state highways; and

(c) Thirty-five (35) miles per hour in a business or residential district.

(4) (a) If the secretary of transportation determines, upon the basis of an engineering and traffic investigation, that any speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, or upon any part of a state highway, the secretary of transportation may establish by official order a reasonable and safe speed limit at the location. The secretary shall not increase any speed limit established by subsection (3) of this section in excess of sixty-five (65) miles per hour, except that, notwithstanding the provisions of subsection (3)(a) of this section, the secretary may increase the speed limit on any of the following segments of highway to seventy (70) miles per hour:

1. Interstate 24 (entire length);

2. Interstate 64 from Interstate 264 to the West Virginia state line;

3. Interstate 65 from Interstate 264 to the Tennessee state line;

4. Interstate 69 (entire length);

5. Interstate 71 from Interstate 264 to Interstate 275;

6. Interstate 75 from the Tennessee state line to Interstate 275;

7. ***Interstate 165 (entire length);***

8. The Audubon Parkway (entire length);

9.~~[8.]~~ The Julian M. Carroll Purchase Parkway (entire length);

10.~~[9.]~~The Bert T. Combs Mountain Parkway ***(entire length)***~~[from Interstate 64 to the beginning of the Mountain Parkway Extension (KY 9009) in Wolfe County]~~;

11. The Bert T. Combs Mountain Parkway Extension (entire length);

12.~~[10.]~~ The Edward T. Breathitt Pennyrile Parkway (entire length);

13.~~[11.]~~ The Wendell H. Ford Western Kentucky Parkway (entire length);

14.~~[12.]~~ The Louie B. Nunn Cumberland Parkway (entire length);

15.~~[13.]~~ The Martha Layne Collins Bluegrass Parkway (entire length); and

16.~~[14.]~~ The William H. Natcher Parkway (entire length).

(b) In a highway work zone, the Transportation Cabinet may temporarily reduce established speed limits without an engineering or traffic investigation. A speed limit established under this paragraph shall become effective when and where posted. The Transportation Cabinet shall post signs notifying the traveling public of the temporary highway work zone maximum speed limit. Nothing in this paragraph shall be construed to prevent the Transportation Cabinet from using moveable or portable speed limit signs in highway work zones.

(5) (a) A city or a county may by ordinance establish speed limits within its own jurisdiction, except as provided in paragraph (b) of this subsection.

(b) The alteration of speed limits on state highways within a city or a county shall not be effective until the alteration has been approved by the secretary of transportation. The secretary shall not approve any alteration that could increase any speed limit established by subsection (3)(b) or (c) of this section in excess of fifty-five (55) miles per hour.

(c) If a county determines, upon the basis of an engineering and traffic investigation and study, that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce the congestion, the fiscal court may by ordinance establish "no parking" areas on the highway, or limit the length of time any motor vehicle may be parked in any business district.

(6) The speed limit for motor vehicles in an off-street parking facility offered for public use, whether publicly or privately owned, shall be fifteen (15) miles per hour.

(7) A person shall not drive a motor vehicle at a speed that will impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(8) In every charge for a violation of any speed limit specified in this section, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, and the lawful speed limit applicable at the location where the violation is charged to have occurred.

Signed by Governor March 26, 2019.

CHAPTER 169

(HB 254)

AN ACT relating to freedom of speech at public postsecondary education institutions.

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

➔Section 1. KRS 164.348 is amended to read as follows:

(1) For purposes of this section:

(a) "Faculty" means any person tasked by a public postsecondary education institution with providing scholarship, academic research, or teaching, regardless of whether the person is compensated by the public postsecondary education institution; and

(b) "Student" means an individual currently enrolled in at least one (1) credit hour at a public postsecondary education institution or a student organization registered pursuant to the policies of a public postsecondary education institution.

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

(a) ~~[(1)]~~ ***The institution protects the fundamental and constitutional right of all students and faculty to freedom of expression;***

(b) The institution grants students and faculty the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue;

(c) The institution commits to maintaining a marketplace of ideas where the free exchange of ideas is not suppressed because an idea put forth is considered by some or even most of the members of the institution's community to be offensive, unwise, disagreeable, conservative, liberal, traditional, or radical;

(d) Students and faculty do not substantially obstruct or otherwise substantially interfere with the freedom of others to express views they reject so that a lively and fearless freedom of debate and deliberation is promoted and protected;

(e) The expression of a student's religious or political viewpoints in classroom, homework, artwork, and other written and oral assignments is free from discrimination or penalty based on the religious or political content of the submissions;

(f) 1. ~~[(2) (a)]~~ The selection of students to speak at official events is made in a viewpoint-neutral manner;

2. ~~[(b)]~~ The prepared remarks of the student are not altered before delivery, except in a viewpoint-neutral manner, unless requested by the student. However, student speakers shall not engage in speech that is obscene, vulgar, offensively lewd, or indecent; and

3. ~~[(c)]~~ If the content of the student's speech is such that a reasonable observer may perceive affirmative institutional sponsorship or endorsement of the student speaker's religious or political viewpoint, the institution shall communicate, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the institution;

(g) ~~[(3)]~~ ***Student*** religious and political organizations are allowed equal access to public forums on the same basis as nonreligious and nonpolitical organizations;

(h) ~~[(4)]~~ No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct such activities;~~[and]~~

(i) Student activity fee funding to a student organization is not denied based on the viewpoints that the student organization advocates;

(j) The generally accessible, open, outdoor areas of the campus be maintained as traditional public forums for students and faculty to express their views, so that the free expression of students and faculty is not limited to particular areas of the campus often described as "free speech zones";

(k) ~~[(5)]~~ There shall be no restrictions on the time, place, and manner of student speech that occurs in the outdoor areas of campus or is protected by the First Amendment of the United States Constitution, except for restrictions that are:

1. ~~[(a)]~~ Reasonable;

2. ~~[(b)]~~ Justified without reference to the content of the regulated speech;

3. ~~[(c)]~~ Narrowly tailored to serve a compelling governmental interest; and

4. ~~[(d)]~~ Limited to provide ample alternative options for the communication of the information***;*** ~~[.]~~

(l) Permit requirements do not prohibit spontaneous outdoor assemblies or outdoor distribution of literature, although an institution may adopt a policy that grants members of the university community the right to reserve certain outdoor spaces in advance;

(m) All students and faculty are allowed to invite guest speakers to campus to engage in free speech regardless of the views of the guest speakers;

(n) Students are not charged fees based on the content of their speech, the content of the speech of guest speakers invited by students, or the anticipated reaction or opposition of listeners to the speech; and

(o) The institution does not disinvite a speaker invited by a student, student organization, or faculty member because the speaker's anticipated speech may be considered offensive, unwise, disagreeable, conservative, liberal, traditional, or radical by students, faculty, administrators, government officials, or members of the public.

(3) (a) Any person aggrieved by a violation of any policy adopted or required to have been adopted pursuant to subsection (2) of this section shall have a cause of action against the institution, or any of its agents acting in their official capacities, for damages arising from the violation, including reasonable attorney's fees and litigation costs.

(b) A claim brought pursuant to this subsection may be asserted in any court of competent jurisdiction within one (1) year of the date the cause of action accrued. The cause of action shall be deemed to have accrued at the point in time the violation ceases or is cured by the institution.

(c) Excluding reasonable attorney's fees and litigation costs, any prevailing claimant shall be awarded no less than one thousand dollars ($1,000) but no more than one hundred thousand dollars ($100,000) cumulatively per action. If multiple claimants prevail and the damages awarded would exceed one hundred thousand dollars ($100,000), the court shall divide one hundred thousand dollars ($100,000) amongst all prevailing claimants equally.

(4) (a) The policies adopted pursuant to subsection (2) of this section shall be made available to students and faculty using the following methods:

1. Publishing in the institution's student handbook and faculty handbook, whether paper or electronic; and

2. Posting to a prominent location on the institution's Web site.

(b) The policies adopted pursuant to subsection (2) of this section may also be made available to students and faculty using the following methods:

1. Mailing electronically to students and faculty annually using their institutionally provided e-mail addresses; or

2. Including in orientation programs for new students and new faculty.

(5) (a) Nothing in this section shall be construed to grant students the right to engage in conduct that intentionally, materially, and substantially disrupts another's expressive activity if that activity is occurring in a campus space previously scheduled or reserved for that activity or under the exclusive use or control of a particular group.

(b) Conduct intentionally, materially, and substantially disrupts another's expressive activity if it significantly hinders the expressive activity of another person or group, or prevents the communication of a message or the transaction of a lawful meeting, gathering, or procession by:

1. Being of a violent or seriously disruptive nature; or

2. Physically blocking or significantly hindering any person from attending, hearing, viewing, or otherwise participating in an expressive activity.

(c) Conduct does not intentionally, materially, and substantially disrupt another's expressive activity if the conduct:

1. Is protected under the First Amendment to the United States Constitution or the Constitution of the Commonwealth of Kentucky, including but not limited to lawful protests and counter-protests in the outdoor areas of campus generally accessible to the public, except during times when those areas have been reserved in advance for other events; or

2. Is an isolated occurrence that causes minor, brief, and nonviolent disruptions of expressive activity.

➔Section 2. This Act may be cited as the Campus Free Speech Protection Act.

Signed by Governor March 26, 2019.

CHAPTER 170

(HB 249)

AN ACT relating to promoting outdoor recreation and tourism development.

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

➔Section 1. KRS 148.0221 is amended to read as follows:

As used in KRS 148.0221 to 148.0225, unless the context requires otherwise:

(1) "Authority" or "KMRRA" means the Kentucky Mountain Regional Recreation Authority established in KRS 148.0222;

(2) "Board" means the board of directors of KMRRA;

(3) "County" means a county, charter county, urban-county government, unified local government, or consolidated local government;

(4) "Kentucky Mountain Recreational Area" or "KMRA" means lands on which there is a system of recreational trails, including streams, rivers, and other waterways, and appurtenant facilities, including trailhead centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities in Kentucky and designated by the KMRRA as a part of the KMRA;

(5) "Land" means roads, water, watercourses, buildings, structures, and machinery or equipment thereon when attached to the realty;

(6) "Landowner" means a tenant, lessee, occupant, or person in control of the premises;

(7) "Participating county" means a county that has qualified under KRS 148.0222(5);

(8) "Participating landowner" means a landowner who owns land in a participating county and has a contractual agreement with the KMRRA for trail development as part of the KMRA;

(9) "Recreational purposes" means all-terrain vehicle riding, bicycling, canoeing, hiking, horseback riding, hunting, kayaking, motorcycle riding, rock climbing, fishing, swimming, archaeological activities, nature study, off-highway vehicle driving, pleasure driving, watersports, winter sports, visiting or viewing historical or scenic sites, and otherwise using land for purposes pertaining to recreation or trail activities; and

(10) "Target county" means Bell, ***Boyd,*** Breathitt, ***Carter,*** Clay, ***Clinton, Elliott, Estill,*** Floyd, ***Greenup,*** Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, ***Lewis, Madison,*** Magoffin, Martin, ***McCreary, Menifee,*** Morgan, Owsley, Perry, Pike, Powell, Pulaski, ***Rockcastle, Rowan, Wayne, Whitley,*** or Wolfe County.

➔Section 2. KRS 148.0222 is amended to read as follows:

(1) The Kentucky Mountain Regional Recreation Authority is hereby created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth and shall exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth. The authority shall be a public body corporate and politic and an instrumentality of the Commonwealth, established with all the general corporate powers incidental thereto. The authority shall be attached to the Kentucky Department for Local Government for administrative purposes only. The authority shall be ***reauthorized***~~[authorized]~~ for ~~[an initial period of]~~five (5) years from ***the effective date of this Act***~~[June 29, 2017]~~, and may be renewed by the General Assembly. The authority may adopt bylaws and administrative regulations, subject to KRS Chapter 13A, for the orderly conduct of its affairs.

(2) The purpose of the authority is to establish, maintain, and promote a recreational trail system throughout the KMRA to increase economic development, tourism, and outdoor recreation for residents and visitors. The recreational trail system shall be located with significant portions of the system situated on private property made available for use through lease, license, easement, or other appropriate legal form by willing landowners.

(3) The authority shall be governed by a board of directors consisting of representatives from participating counties and the Commonwealth as provided in this section.

(4) The authority and board shall become operational when sixteen (16) target counties complete the requirements established by subsection (5)(a)1. of this section. When at least sixteen (16) target counties become participating counties, the commissioner of the Department for Local ***Government***~~[government]~~ shall notify the county judge/executive of each of the participating counties, as well as the board members described in subsection (6) of this section, that the requirements have been met for the authority and board to become operational. The commissioner shall also establish a date, time, and place for an initial organizational meeting of the board, and shall serve as interim chair of the initial organizational meeting until such time as a chair is elected. The chair shall be a resident of a participating county.

(5) ~~[To become a participating county, a county shall meet one (1) of the following:~~

~~(a)]~~Any target county may become a participating county upon adoption of a resolution or ordinance by the governing body of the county specifically approving the county's participation in the KMRRA and submission of the adopted resolution or ordinance to:

(a) ~~[1.]~~ The commissioner of the Department for Local Government if the resolution or ordinance is adopted prior to the KMRRA becoming operational pursuant to subsection (4) of this section; or

(b) ~~[2.]~~ The KMRRA if the resolution or ordinance is adopted after KMRRA becomes operational~~[; or~~

~~(b) Any county that is not a target county and is contiguous to a target county may become a participating county through an application process developed by the KMRRA. The application shall be approved or rejected by a majority of the board's voting members]~~.

(6) The KMRRA board shall consist of the following members:

(a) The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;

(b) The commissioner of the Department for Local Government or his or her designee;

(c) ***The commissioner of the Department of Fish and Wildlife Resources or his or her designee;***

(d) ***If an*** ~~[The]~~ executive director of the authority ***has been employed under subsection (10) of this section***, ***he or she*** ~~[who]~~ shall serve as a nonvoting member***, except in the event of a tie vote of the board***;

(e) ~~[(d)]~~ One (1) representative ***selected for each of the nine (9) participating counties as provided in subsection (8) of this section*** ~~[from each participating county]~~, who shall be either:

1. The county judge/executive; or

2. The county judge/executive's designee, who shall be an individual involved with economic development, tourism, recreation, or a related area within the county;

~~[(e) One (1) landowner or his or her designee, who shall be selected by participating landowners;]~~

(f) One (1) state Representative ***who is from the KMRRA region*** ~~[, who]~~ shall serve as a nonvoting member, appointed to ***a two (2) year*** ~~[an annual]~~ term by the Speaker of the Kentucky House of Representatives***, and shall not serve another term consecutively with a prior term***; and

(g) One (1) state Senator ***who is from the KMRRA region*** ~~[, who]~~ shall serve as a nonvoting member, appointed to ***a two (2) year*** ~~[an annual]~~ term by the President of the Kentucky Senate***, and shall not serve another term consecutively with a prior term***.

(7) ~~[(a)]~~The board membership of each county judge/executive or his or her designee shall:

(a) ~~[1.]~~ Begin with the county judge/executive's term of office; and

(b) ~~[2.]~~ End with the county judge/executive's term of office.

If a county judge/executive ceases to serve as the county judge/executive prior to the end of his or her term, he or she shall be removed from the board, and his or her replacement as county judge/executive shall serve on the board for the remainder of the term.

~~[(b) The term of the landowner member shall be four (4) years, and he or she may be reappointed for one (1) successive term.]~~

(8) (a) The twelve (12) voting members of the board shall be:

1. ***The nine (9) county judges/executive, or their designees, from different KMRRA participating counties as described in subsection (6) (e) of this section***~~[Nine (9) of the county representatives or their designees described in subsection (6)(d) of this section who have been accorded voting status under paragraphs (b) to (e) of this subsection]~~;

2. ~~[One (1) landowner or his or her designee described in subsection (6)(e) of this section;~~

~~3.]~~The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;~~[and]~~

3.~~[4.]~~ The commissioner of the Department for Local Government or his or her designee***; and***

4. The commissioner of the Department of Fish and Wildlife Resources or his or her designee.

(b) The nine (9) initial county representatives shall be the county judges/executive of Breathitt, Martin, Perry, Knott, Leslie, Letcher, Pike, Magoffin, and Floyd Counties or their designees in that order. The first three (3) representatives listed shall serve a three (3) year term as voting members, the next three (3) representatives shall serve a two (2) year term as voting members, and the remaining three (3) representatives shall serve a one (1) year term as voting members.

(c) After each term ends, the voting county representative shall be replaced by one (1) of the county judges/executive or his or her designee from one (1) of the target counties whose representative has not yet served as a voting member.

(d) After the third year of operation, each new voting member shall serve a term of three (3) years, then step down and let a representative from ***the next***~~[a]~~ county ***in line alphabetically*** whose representative has not served as a voting member take his or her place.

(e) Once representatives from all participating counties within KMRA have each served one (1) term, the rotation shall begin again. ~~[The rotation order may vary as long as no participating county has a representative serve as a voting member more than four (4) years more than any other county in a four (4) year period.]~~

(9) (a) The board shall meet at least once ***annually***~~[every quarter]~~ to elect officers, establish a regular meeting schedule, and perform other duties as may be prescribed in the authority's bylaws. The board chair may call special meetings at any time.

(b) Notice of each meeting shall be made ***both*** in writing ***and electronically*** and delivered to board members at least seven (7) days before the scheduled meeting date. Electronic mail ***alone*** is an acceptable form of notice of special meetings, so long as it is sent to directors at least seven (7) days before the scheduled meeting date.

(c) ***Accommodations shall be made for remote attendance of each board meeting, whether regular or special, through means such as video conferencing, conference call, or similar services.***

(d) The presence of a majority of the total voting members of the KMRRA board***, whether in person or remote,*** shall constitute a quorum. Vacant board positions shall be counted against the quorum total necessary for board action.

(e) Board meetings shall be held exclusively within KMRRA participating counties, and each meeting shall be held in a different participating county until every participating county has hosted a meeting, at which time the cycle shall begin again.

(10) The KMRRA board:

(a) Shall elect a chair, vice chair, secretary, treasurer, and any other officers as established in the bylaws of the board;

(b) May appoint temporary and standing committees to accomplish the purposes of KRS 148.0221 to 148.0225 and shall clearly describe the role, responsibilities, and tenure of each committee so created;

(c) Shall adopt bylaws for the management and regulation of its affairs and all other matters necessary to effect proper management and accountability of the board. The bylaws shall include, at a minimum, the following:

1. The powers and duties of the board's members and the manner and number of officers to be elected from among the board members; ***and***

2. The terms, conditions, and manner in which a board member will be removed;~~[and~~

~~3. The terms and conditions under which a board member will be paid to attend meetings, if at all, and the extent to which members will be reimbursed for travel and other expenses and any requirements for approval of expense reports, if applicable;]~~

(d) Shall review and approve an annual budget;

(e) Shall annually procure an audit of the authority's financial systems, conducted in accordance with generally accepted auditing standards. The Auditor of Public Accounts shall perform the audit. A copy of the audit shall be sent to the Legislative Research Commission ***and the Department for Local Government*** within ten (10) days of receipt by the board;

(f) Shall ensure that all administrative costs for operating the authority are paid from funds accruing to the authority. The authority, its board, and its staff shall incur no liability or obligation beyond the extent to which revenues have been provided under KRS 148.0221 to 148.0225;

(g) May seek administrative and management assistance through written agreement with state agencies, local area development districts, or local governing bodies until such time as the board has secured sufficient funding through grants, loans, fee systems, or any other funding source to hire staff; ***and***

(h) Shall employ an executive director to act as its chief executive officer to serve at its will and pleasure ***once it is financially possible to do so***~~[; and~~

~~(i) Shall establish personnel, retirement, and benefit systems through professional programs approved by the board]~~.

(11) The executive director:

(a) ***Shall be a person who is domiciled in a KMRRA participating county;***

(b) May, with permission of the board ***and approval of the commissioner of the Department for Local Government or his or her designee***, employ any other ***hourly*** personnel considered necessary~~[,]~~ ***and*** retain temporary services~~[, and retain consultants]~~***. Pay raises for any personnel shall require approval of the board and the commissioner of the Department for Local Government or his or her designee***;

(c)~~[(b)]~~ Shall carry out plans to implement KRS 148.0221 to 148.0225 and to exercise those powers enumerated in the bylaws of the board;

(d)~~[(c)]~~ Shall, along with any staff with responsibilities so delegated by the executive director, ensure that all minutes, records, and orders of the authority and its board are complete and available for public inspection, if necessary;~~[and]~~

(e)~~[(d)]~~ Shall prepare narrative and financial reports of the authority's fiscal obligations and submit these reports to the board at regularly scheduled meetings or as otherwise directed***; and***

(f) May cast a tiebreaking vote in board decisions, but shall not be permitted to cast a vote under any other circumstances. Until such time as an executive director is hired, the chairperson of the board shall make the final determination in the event of a tie vote of the board.

(12) The executive director, all full-time or part-time personnel, all seasonal employees, and all contractual employees, if any, shall be paid from funds accruing to the authority and authorized in a budget approved by the board***, unless the Department for Local Government has temporarily taken on the responsibility of paying any of those employees***.

(13) Board members shall serve without compensation, but may be reimbursed for actual and necessary travel expenses incurred in the performance of their duties, subject to Finance and Administration Cabinet administrative regulations. Board members may have their lodging reimbursed by KMRRA. Any reimbursement requests exceeding five hundred dollars ($500) per person shall be submitted to the Department for Local Government for approval.

➔Section 3. KRS 148.0223 is amended to read as follows:

(1) The KMRRA shall:

(a) Supervise the design and construction of trail systems within the KMRA and provide all management functions for the trails and for any other property built, acquired, or leased pursuant to its powers under KRS 148.0221 to 148.0225;

(b) Construct, develop, manage, maintain, operate, improve, renovate, finance, or otherwise provide for recreational and trail-related activities and facilities on designated public lands and private lands of participating landowners who have voluntarily entered into use agreements with the board;

(c) Promote the growth and development of the trail system, tourism, and the hotel, restaurant, and entertainment industry within the KMRA and the Commonwealth, through marketing KMRA to enhance local economic and tourism development;

(d) Establish agreements with other persons, businesses, agencies, organizations, or any other entity to levy a surcharge on tickets for events, activities, festivals, or functions that are cosponsored with other entities and contribute to the authority's operating revenue; and

(e) Procure insurance against any losses in connection with its property, licenses, easements, or contracts, including hold-harmless agreements, operations, or assets in such amounts and from such insurers as the board considers desirable.

(2) The board's management program shall prioritize contractual arrangements with private landowners to use land for recreational purposes, which shall not diminish the participating landowner's interest, control, or profitability of the land. If necessary to implement a comprehensive trail system, the board may also contract with public landowners through contractual agreements that recognize the primary mission for which the public entity controls and manages the land.

(3) The board may carry out any of the following to accomplish the purposes of KRS 148.0221 to 148.0225:

(a) Acquire, own, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission, except that the authority shall not acquire property through the exercise of the power of eminent domain;

(b) Dispose of any property acquired in any manner provided by law;

(c) Lease property, whether as lessee or lessor, and acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the use of the public;

(d) Mortgage or otherwise grant security interests in its property;

(e) Maintain sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority; ***however, contributions to a sinking fund during a fiscal year shall not exceed ten percent (10%) of the total fees collected during the prior year;***

(f) Sue and be sued, plead and be impleaded, and complain and defend in any court;

(g) Make contracts and execute instruments necessary for carrying on its business, including contracts with any Kentucky state agency, the federal government, or any person, individual, partnership, or corporation to effect any or all of the purposes of KRS 148.0221 to 148.0225***, as follows:***

1. Contracts shall go through a public bidding process;

2. Contracts for one thousand dollars ($1000) or more shall be sent, with at least three (3) bids from separate entities, to the Department for Local Government for review and final approval;

3. Bids from entities within KMRRA participating counties are to be given preference over competing bidders from outside of KMRRA participating counties;

4. If the Department for Local Government has not given a response in the form of an approval or rejection after five (5) business days from the date the department received the contract to be reviewed, it shall be considered approved;

(h) Accept grants and loans from and enter into contracts and other transactions with any federal agency, regional commission, or state agency for accomplishing the purposes of KRS 148.0221 to 148.0225;

(i) ~~[Maintain an office at any place within the KMRA as the board may designate;~~

~~(j)]~~Borrow money and issue bonds, security interests, or notes;

(j) ~~[(k)]~~ Provide for and secure the payment of the bonds, security interests, or notes;

(k) ~~[(l)]~~ Provide for the rights of the holders of the bonds, security interests, or notes;

(l) ~~[(m)]~~ Purchase, hold, and dispose of any of its bonds, security interests, or notes;

(m) ~~[(n)]~~ Accept gifts or grants of property, security interests, money, labor, supplies, or services from any governmental unit or from any person, firm, or corporation;

(n) ~~[(o)]~~ Establish a regional recreational trail system based upon contracts and agreements with participating landowners. The board may enter into contracts with landowners, and other persons holding an interest in the land being used for its recreational facilities, to hold those landowners harmless with respect to any claim in tort growing out of the use of the land for public recreation or growing out of the recreational activities operated or managed by the board from any claim, except a claim for damages proximately caused by the willful or malicious conduct of the landowner or any of his or her agents or employees;

(o) ~~[(p)]~~ 1. Establish a fee-based system of permits, user registrations, or other trail or facility access mechanisms.

2. The fees may be imposed for access to and use of the trails, parking facilities, visitor centers, or other trail-related recreational purpose facilities or recreation activities that are part of the KMRA or as an admission to an event.

3. The fees shall be decided by the board.

4. The KMRRA shall retain and use the revenue from fees for any purposes consistent with KRS 148.0221 to 148.0225 ***and within the guidelines in subsection (4) of this section***;

(p) ~~[(q)]~~ Promulgate administrative regulations in accordance with KRS Chapter 13A to govern use and maintenance of the KMRA and any other matters for effective management of the KMRA;

(q) ~~[(r)]~~ Cooperate and contract with the regional recreation authorities of Tennessee, Virginia, West Virginia, and other contiguous states to connect the trails in Kentucky with similar recreation facilities in those states; and

(r) ~~[(s)]~~ Exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth.

(4) ***The fees collected by the KMRRA are to be used within the following guidelines:***

(a) To pay the salary of the executive director and all staff of the KMRRA;

(b) To reimburse travel expenses of board members including lodging, subject to Finance and Administration Cabinet administrative regulations;

(c) To fund the construction, maintenance, and all necessary expenses of the KMRRA trail system;

(d) To maintain a sinking fund with contributions to the fund during a fiscal year not to exceed ten percent (10%) of the total fees collected during the prior year and the total fund not to exceed a balance of one million dollars ($1,000,000) at the end of any fiscal year; and

(e) Any remaining moneys not already appropriated in accordance with KRS 148.0221 to 148.0225 at the end of the fiscal year are to be sent to the Department for Local Government to be placed into an account to be used exclusively for economic development grants in KMRRA participating counties. These grants shall give preference to projects in economically distressed counties, then to at-risk counties, and then to transitional counties, as defined by the Appalachian Regional Commission.

(5) Nothing in this section shall be construed as a waiver of sovereign immunity.

Signed by Governor March 26, 2019.

CHAPTER 171

(HB 248)

AN ACT relating to boating safety.

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

➔Section 1. KRS 235.240 is amended to read as follows:

(1) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device, in a reckless or negligent manner so as to endanger the life or property of any person.

(2) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device, while intoxicated or under the influence of any other substance which impairs one's driving ability.

(3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.

(4) For the purposes of enforcing ***subsection (2) of*** this section, the elements of the offense are those established in KRS 189A.010(1) to (4), except that the penalties for this offense are set forth in KRS 235.990.

➔Section 2. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter or administrative regulations adopted under this chapter shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200). After July 15, 2000, any person who violates KRS 235.230 shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100) and each day the violation continues may constitute a separate offense.

(2) Any person who violates KRS 235.240 shall not be subject to the penalties of KRS Chapter 189A but shall be guilty of a separate offense and subject to a fine of two hundred dollars ($200) to two hundred fifty dollars ($250) ***or imprisonment for twenty-four (24) hours*** for the first offense, a fine of three hundred fifty dollars ($350) to five hundred dollars ($500) ***or imprisonment for forty-eight (48) hours*** for the second offense, and a fine of six hundred dollars ($600) to one thousand dollars ($1,000) or imprisonment in the county jail for not less than thirty (30) days, or both, for the third or subsequent offense. Refusal to submit to a breath alcohol analysis or similar test in violation of KRS 235.240(3) shall be deemed an offense.

(3) (a) A person may, in addition or in lieu of the penalties specified in subsection (1) or (5) of this section, be required to take a safe-boating course approved by the department or offered by the United States Coast Guard, Coast Guard Auxiliary, or U.S. Power Squadron and to present the court a certificate documenting successful completion of the course.

(b) A person shall, in addition to the penalties of subsection (2) of this section, be required to take a safe-boating course offered by the department and to present the court a certificate documenting successful completion of the course. The person attending a class under this paragraph shall pay the department a fee of one hundred dollars ($100) for the costs of materials and instruction before receiving a certificate of completion.

(4) After July 15, 2000, any person who violates KRS 235.420 or 235.430 shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100). A person who violates KRS 235.420 or 235.430 shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300) for the second offense, and not less than three hundred dollars ($300) nor more than five hundred dollars ($500) for the third or any subsequent offense.

(5) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200).

(6) Any person who makes a false statement regarding a marine boat toilet on the application for registration or renewal registration for a motorboat shall be fined one hundred dollars ($100). This penalty shall be separate from any other penalty that may be applicable for violation of this chapter.

(7) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with any officer in the discharge of his duties, other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters, shall be guilty of a Class A misdemeanor.

(8) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(9) Any person who violates KRS 235.203 shall be fined fifty dollars ($50).

➔Section 3. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his or her presence; or

(c) Without a warrant when he or she has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his or her presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his or her presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his or her presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person being arrested has violated KRS 189A.010 or KRS 281A.210;~~[or]~~

(f) Without a warrant when a violation of KRS 508.030 has occurred in a hospital without the officer's presence if the officer has probable cause to believe that the person being arrested has violated KRS 508.030. As used in this paragraph, "hospital" includes any property owned or used by a hospital as a parking lot or parking garage***; or***

(g) Without a warrant when a violation of subsection (2) of Section 1 of this Act has occurred causing an accident, occurring outside of the peace officer's presence, involving a motorboat or vessel on the waters of the Commonwealth, and resulting in a physical injury or property damage, and a commissioned peace officer has probable cause to determine who the operator of the motorboat or vessel was and that operator was intoxicated or under the influence of any substance that impairs one's ability to operate the motorboat or vessel at the time of the accident.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member, member of an unmarried couple, or another person with whom the person was or is in a dating relationship.

(b) As used in this subsection, "dating relationship," "family member," and "member of an unmarried couple" have the same meanings as defined in KRS 403.720 and 456.010.

(c) For the purpose of this subsection, the term "member of an unmarried couple" has the same meaning as set out in KRS 403.720.

(3) A peace officer may arrest a person without a warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.

(4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to KRS 15.380.

(5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(6) A private person may make an arrest when a felony has been committed in fact and he or she has probable cause to believe that the person being arrested has committed it.

(7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

Signed by Governor March 26, 2019.

CHAPTER 172

(SB 246)

AN ACT relating to economic development and declaring an emergency.

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

➔Section 1. KRS 154.12-100 is amended to read as follows:

(1) "Economic development ***fund***~~[bonds]~~" means the ***fund***~~[bond program]~~ authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) ***The economic development fund shall be funded through the issuance of bonds by the State Properties and Buildings Commission or other appropriation by the General Assembly.***

(3) The economic development ***fund***~~[bond program]~~ shall be administered by the secretary of the Cabinet for Economic Development. The ***authority***~~[board]~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A for project selection criteria ***and administration of the economic development fund***. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement;

(c) Degree and conditions of project payback; and

(d) ***Amount of investment***~~[Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary]~~.

(4)~~[(3)]~~ Prior to submission of an economic development ***fund***~~[bond]~~ project to the ***authority***~~[Capital Projects and Bond Oversight Committee]~~, the secretary of the Cabinet for Economic Development shall receive a written commitment from the public or private organization which has requested ***funds***~~[state bonds]~~ outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the ***authority***~~[Capital Projects and Bond Oversight Committee]~~. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties~~[, which shall thereafter be automatically forwarded to the committee for its records]~~.

(5)~~[(4)]~~ Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development ***fund***~~[bond]~~ program, unless expressly provided in a branch budget bill. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of ***funds pursuant to this section***~~[state economic development bonds]~~ before any commitment is made on any project to any public or private organization.~~[Before any economic development bonds are issued, the proposed bond issue shall be approved by the board, and the State Property and Buildings Commission, under the provisions of KRS 56.450.]~~

(6)~~[(5)]~~ Following the approval by the ***authority***~~[board]~~, the project shall be presented by the secretary of the Cabinet for Economic Development or his ***or her*** designee with supporting documentation for review and approval at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810 and at the next regularly scheduled meeting of the State Property and Buildings Commission ***pursuant to KRS 56.450***.

(7)~~[(6)]~~ Notwithstanding the provisions of KRS 56.872(3), the amount of economic development ***funds***~~[bonds]~~ issued during any biennium shall not exceed the ***balance of the fund, and any funds authorized in the biennial budget shall carry forward and shall not lapse***~~[amount stated in the biennial budget]~~.

(8)~~[(7)]~~ By November 1 of each year, the Cabinet for Economic Development shall prepare and post an annual report to the cabinet's Web site as required in KRS 154.12-2035, showing the economic development ***funds***~~[bonds]~~ issued during the previous fiscal year, ***funds disbursed,*** the amounts paid back, and the balance still owing with respect to ***grants or*** loans made by the Cabinet for Economic Development with proceeds of economic development ***funds***~~[bonds]~~ during the previous five (5) fiscal years.

➔Section 2. KRS 154.25-010 is amended to read as follows:

As used in this subchapter:

(1) "Activation date" means a date selected by an approved company and set forth in the jobs retention agreement at any time within a three (3) year period after the date of final approval of the agreement by the authority upon which the required investment shall be made and the jobs retention project completed;

(2) "Agreement" means a jobs retention agreement entered into pursuant to KRS 154.25-030 on behalf of the authority and an approved company with respect to a jobs retention project;

(3) ***"Agribusiness" has the same meaning as in KRS 154.32-010;***

(4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.25-030 for a jobs retention project;

(5)~~[(4)]~~ "Approved costs" means that portion of the eligible costs approved by the authority that an approved company may recover through the inducements authorized by KRS 154.25-030, being a percentage of eligible costs as approved by the authority;

(6)~~[(5)]~~ "Assessment" means the wage assessment fee authorized by KRS 154.25-040;

(7)~~[(6)]~~ "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(8)~~[(7)]~~ "Commonwealth" means the Commonwealth of Kentucky;

(9)~~[(8)]~~ "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity~~[designated by the United States Department of Commerce, United States Census Bureau North American Industry Classification System Code of 325211, 325510, 326199, 327211, 327212, 327215, 331111, 331221, 331521, 332312, 332813, 33299, 333415, 335110, 335221, 335222, 335224, 335228, 335911, 335912, 336211, 336111, 336112, 336120, 423510, 493110, 541614, 551114, or 561439,]~~ that ***has been operating within the Commonwealth on a continuous basis for at least sixty (60) months preceding the request for approval by the authority of the project which meets the standards set forth in KRS 154.25-020, has been previously approved for economic development incentives from the Commonwealth related to one (1) or more of its facilities, and*** employs a minimum of one thousand (1,000) full-time persons engaged in ***one (1) or more of the following activities:***

(a) Manufacturing;

(b) Agribusiness;

(c) Nonretail service or technology; or

(d) Headquarters operations, regardless of the underlying business activity of the company.

"Eligible company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services, or public administration services~~[automobile, automobile parts or supplies, household appliance, or household appliance parts or supplies manufacturing, has been operating within the Commonwealth on a continuous basis for at least five (5) years preceding the request for approval by the authority of the project which meets the standards set forth in KRS 154.25-020, and that has been previously approved for economic development incentives from the Commonwealth related to one (1) or more of its facilities]~~;

(10)~~[(9)]~~ "Eligible costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of a jobs retention project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;

(e) All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(11) ~~[(10)]~~ "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(12) "Headquarters" has the same meaning as in KRS 154.32-010;

(13) ~~[(11)]~~ "Inducements" means the Kentucky tax credit and the wage assessment fee as prescribed in KRS 154.25-030 and 154.25-040;

(14) ~~[(12)]~~ "Jobs retention project" or "project" means the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the acquisition, construction, and installation of new equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located; and shall contain eligible costs of not less than one hundred million dollars ($100,000,000), all of which are utilized to improve the economic and operational situation of an approved company to allow the approved company to reinvest in its operations and retain a significant number of existing jobs within the Commonwealth;

(15) ~~[(13)]~~ "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401;

(16) ~~[(14)]~~ "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401;

(17) ~~[(15)]~~ "Manufacturing" ***has the same meaning as in KRS 154.32-010*** ~~[means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities]~~;

(18) "Non-retail service or technology" has the same meaning as in KRS 154.32-010;

(19) ~~[(16)]~~ "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(20) ~~[(17)]~~ "Supplemental project" means an additional jobs retention project proposed by the approved company or its affiliate during the term of a previously approved jobs retention project, which may be included in the jobs retention agreement by way of amendment and which may result in increased inducements and an extension of the original project term as set forth in KRS 154.25-050; and

(21) ~~[(18)]~~ "Transferred credits" means unused approved costs as determined by the Department of Revenue from a previously approved, independent, active project under a different incentive program governed by the Cabinet for Economic Development that may be transferred to a jobs retention project and used by the approved company pursuant to a jobs retention agreement.

➔Section 3. KRS 154.32-020 is amended to read as follows:

(1) The purposes of this subchapter are:

(a) To provide incentives for eligible companies and to encourage the location or expansion of manufacturing facilities, agribusiness operations, nonretail service or technology facilities, headquarters operations, alternative fuel production facilities, gasification production facilities, energy-efficient

alternative fuel production facilities, renewable energy production facilities, and carbon dioxide transmission pipelines in the Commonwealth to advance the public purposes of:

1. Creation of new jobs that, but for the incentives offered by the authority, would not exist within the Commonwealth;

2. Creation of new sources of tax revenues for the support of public services provided by the Commonwealth; and

3. Improvement in the quality of life for Kentucky citizens through the creation of sustainable jobs with higher salaries; and

(b) To provide enhanced incentives for companies that locate in enhanced incentive counties in recognition of the depressed economic conditions in those counties and the increased need for the growth and development caused by the depressed economic conditions.

(2) ~~[(a)~~ To qualify for the incentives provided by subsection (3) of this section, an approved company shall:

(a) ~~[1.]~~ Incur eligible costs of at least one hundred thousand dollars ($100,000);

(b) ~~[2.]~~ Create at least ten (10) new full-time jobs and maintain an annual average number of at least ten (10) new full-time jobs; and

(c) ***1.*** ~~[3. a.]~~ Pay at least ninety percent (90%) of all new full-time employees whose jobs were created as a result of the economic development project a minimum wage of at least one hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties, and one hundred fifty percent (150%) of the federal minimum wage in other counties throughout the term of the economic development project; and

2. ~~[b.]~~ Provide employee benefits for all new full-time jobs equal to at least fifteen percent (15%) of the minimum wage requirement established by ~~[subdivision a. of this]~~subparagraph ***1. of this paragraph***. If the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the minimum wage requirement established by ~~[subdivision a. of this]~~subparagraph ***1. of this paragraph***, the eligible company may still qualify for incentives if it provides the full-time employees hired as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the minimum wage requirement established in ~~[subdivision a. of this]~~subparagraph ***1. of this paragraph*** through increased hourly wages combined with employee benefits.

~~[(b) To qualify for the advance disbursement provided by KRS 154.32-080, an approved company shall commit to meeting the job and wage requirements established by paragraph (a) of this subsection, and shall provide documentation indicating that the proposed economic development project will require investment of at least five hundred million dollars ($500,000,000).]~~

(3) The incentives available under this subchapter are as follows:

(a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040 and the limited liability entity tax imposed under KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project, as set forth in KRS 141.415 and 154.32-070;

(b) Authorization for the approved company to impose a wage assessment against the gross wages of each new employee subject to the Kentucky income tax as provided in KRS 154.32-090; and

(c) ***Notwithstanding any provision of law to the contrary, for any economic development project with an eligible investment of more than two hundred million dollars ($200,000,000), the authority may authorize approval to the economic development project based upon terms and incentives applicable to economic development project locating in an enhanced incentive county*** ~~[For economic development projects with an investment of more than five hundred million dollars ($500,000,000), an advance disbursement as provided in KRS 154.32-080]~~.

(4) The General Assembly hereby finds and declares that the authority granted in this subchapter and the purposes accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of economic development projects within the Commonwealth is of paramount importance to the economic well-being of the Commonwealth.

➔Section 4. KRS 154.32-030 is amended to read as follows:

(1) The application, approval, and review process under this subchapter shall be as follows:

(a) An eligible company with a proposed economic development project may submit an application to the authority. The application shall include the information required by subsection (3) of this section;

(b) ~~[1.]~~Upon review of the application and any additional information submitted, the authority may, by resolution, give preliminary approval to an eligible company and authorize the negotiation and execution of a memorandum of agreement. The memorandum of agreement shall establish a preliminary job target, minimum wage target, including employee benefits, and maximum total approved cost for the economic development project, and shall only allow the recovery of eligible costs incurred after preliminary approval. Upon preliminary approval, the preliminarily approved company may undertake the project in accordance with the memorandum of agreement, and may begin to hire employees that may be counted toward the minimum full-time job requirements established by the memorandum of agreement~~[.~~

~~2. If the preliminary approval includes an advance disbursement, a separate loan agreement shall also be negotiated establishing the terms for the advance disbursement in accordance with KRS 154.32-080]~~;

(c) After preliminary approval but before final approval, the authority shall post the preliminarily approved company's name, the location of the economic development project, and the incentives that have been preliminarily approved on the Cabinet for Economic Development's Web site;

(d) The preliminarily approved company shall submit any documentation required by the authority upon request of the authority;

(e) To obtain final approval, the preliminarily approved company shall submit:

1. Documentation required by the authority to confirm that the requirements established by the memorandum of agreement have been met; and

2. Documentation of official action taken by a local governmental entity detailing the manner and level of local contribution, if applicable.

Upon review and confirmation of the documentation, the authority may, by resolution, give final approval to the preliminarily approved company, and authorize the execution of a tax incentive agreement between the authority and the approved company pursuant to KRS 154.32-040. The tax incentive agreement shall establish an activation date, which shall be within two (2) years of final approval;

(f) 1. On or before the activation date, the approved company shall notify the authority of its intention to activate the tax incentive agreement. The approved company shall submit:

a. Documentation that it has met the minimum full-time job, minimum investment, and minimum wage and employee benefits requirements established by KRS 154.32-020 as of the date of activation; and

b. The confirmed approved costs incurred as of the date of activation, which shall be the total eligible costs that may be recovered by the approved company.

2. If the approved company fails to meet any of the minimum investment, full-time job, or wage requirements, including employee benefits, established by KRS 154.32-020 on the activation date, the tax incentive agreement shall be canceled and the approved company shall not be eligible for incentives.

3. If an approved company meets the minimum investment, full-time job, and wage requirements, including employee benefits, established by KRS 154.32-020, but fails to meet higher job targets and minimum wage targets, including employee benefits, established in the tax incentive agreement, then the provisions of subsection (4) of this section shall apply in determining the incentives for which the approved company qualifies.

4. Upon activation of a tax incentive agreement, the authority shall notify the department, and shall provide the department with the information necessary to monitor and track the incentives taken by the approved company; and

(g) 1. The authority shall monitor the tax incentive agreement at least annually, and the approved company shall submit all documentation necessary for the authority to monitor the agreement.

2. The authority shall, based on the documentation provided, confirm that the approved company is in continued compliance with the provisions of the tax incentive agreement and, therefore, eligible for incentives.

3. Upon annual review, if the approved company meets the minimum job and wage requirements, including employee benefits, established by KRS 154.32-020, but fails to meet the job target and minimum wage target, including employee benefits, established in the tax incentive agreement, then the provisions of subsection (4) of this section shall apply in determining the incentives for which the approved company qualifies in any year.

4. Upon final approval, the authority shall notify the department that an approved company is eligible for incentives and shall provide the department with the information necessary to monitor the use of incentives by the approved company. If, at any time during the term of the tax incentive agreement, an approved company becomes ineligible for incentives, the authority shall notify the department, and the department shall discontinue the availability of incentives for the approved company.

(2) (a) The authority may establish procedures and standards for the review and approval of eligible companies and their economic development projects through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(b) Standards to be used by the authority in reviewing and approving an eligible company and its economic development project shall include but not be limited to:

1. The creditworthiness of the eligible company;

2. The proposed capital investment to be made;

3. The number of new full-time jobs to be provided for the residents of the Commonwealth and the wages to be paid;

4. Support of the local community; and

5. The likelihood of the economic success of the economic development project.

(3) The application shall include but not be limited to:

(a) The name of the applicant and identification of any affiliates of the applicant who will have some relation to the economic development project;

(b) A description of the economic development project, including its location, the total investment in the economic development project, and total proposed eligible costs;

(c) The projected number of new full-time jobs to be created as a result of the economic development project and identification of any affiliates who may employ persons hired to fill those jobs;

(d) The number of existing full-time jobs at the site of the economic development project on the date of the application and a description and breakdown of the relevant affiliated employers;

(e) Proposed wage and employee benefit amounts for the new full-time jobs to be created as a result of the proposed economic development project;

(f) For proposed economic development projects new to the Commonwealth, certification by the eligible company that the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the incentives offered by the authority, the eligible company would likely locate outside the Commonwealth;

(g) For eligible companies with an existing location in the Commonwealth considering an expansion, certification that the tax incentives are necessary for the expansion to occur;

(h) A letter of support from a local governmental entity in the city or county where the economic development project will be located; and

(i) Any other information the authority may require.

(4) (a) An approved company that meets the minimum job and wage requirements, including employee benefits established by KRS 154.32-020, but fails to meet the job target and minimum wage target, including employee benefits established by the tax incentive agreement, shall be eligible to receive the incentives authorized by the tax incentive agreement as provided in this subsection.

(b) If, upon activation or annual review, an approved company achieves at least ninety percent (90%) of both the job target and minimum wage target, including employee benefits established by the tax incentive agreement, and no other default has occurred, then the approved company shall be eligible to receive full incentives as provided in the tax incentive agreement.

(c) If, upon activation or annual review, an approved company achieves less than ninety percent (90%) of either the job target or minimum wage target, including employee benefits established in the tax incentive agreement, and no other default has occurred, then the incentives available to the approved company for the following year shall be reduced by a percentage equal to the percentage representing the difference between the job target or minimum wage target, including employee benefits established in the tax incentive agreement, and the actual average number of full-time jobs or average wage, including employee benefits, paid. If both the number of actual average full-time jobs and average wages paid, including employee benefits, are below ninety percent (90%) of the targets on the same measurement date, then the greater percentage reduction of the two (2) shall be applied rather than reducing the incentives available by the sum of the two (2).

(d) If, upon annual review, either the actual number of new full-time jobs or the average wages paid for those jobs, including employee benefits, is less than the minimum requirements established by KRS 154.32-020, then the economic development project may be suspended automatically or, with approval of the authority, terminated.

➔Section 5. KRS 154.32-090 is amended to read as follows:

(1) An approved company or, with the authority's consent, an affiliate of an approved company may impose wage assessments against employees as provided in this section if a wage assessment is included in the incentives awarded to the approved company in the tax incentive agreement. The level of wage assessment shall be negotiated as part of the tax incentive agreement.

(2) If an economic development project is located in an enhanced incentive county, the approved company or, with the authority's consent, an affiliate of the approved company may require that each employee subject to the tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to an assessment of up to five percent (5%) of taxable wages.

(3) (a) If the economic development project is not located in an enhanced incentive county, and is located in a local jurisdiction where:

1. No local occupational license fee is imposed; or

2. a. A local occupational license fee greater than or equal to one percent (1%) is imposed; and

b. The local jurisdiction agrees to forgo one percent (1%) via credits against the local occupational license fee for the affected employees; then

(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment of up to four percent (4%) of taxable wages.

(4) (a) If:

1. The economic development project is not located in an enhanced incentive county, and is located in a jurisdiction where the local occupational license fee is less than one percent (1%); and

2. The local jurisdiction agrees to forgo the total amount of the local occupational license fee; then

(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment of up to three percent (3%) of taxable wages, plus a percentage equal to the amount of the local occupational license fee the local jurisdiction agrees to forgo.

(5) (a) If:

1. The project is not located in an enhanced incentive county and is located in a county where the jurisdiction imposes a local occupational license fee of less than one percent (1%); and

2. The local jurisdiction agrees to forgo only a portion of the total amount of the local occupational license fee; then

(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment to be determined as follows:

1. Divide the local occupational license fee that the local jurisdiction has agreed to forgo by the total local occupational license fee imposed;

2. Multiply the result determined under subparagraph 1. of this paragraph by three percent (3%); and

3. Add the result from subparagraph 2. of this paragraph to the local occupational license fee that the local jurisdiction has agreed to forgo.

(6) (a) If:

1. The project is not located in an enhanced incentive county, and is located in a county where the jurisdiction imposes a local occupational license fee equal to or greater than one percent (1%); and

2. The local jurisdiction agrees to forgo the local occupational license fee in an amount of less than one percent (1%); then

(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment to be determined as follows:

1. Divide the local occupational license fee that the local jurisdiction has agreed to forgo by one percent (1%);

2. Multiply the result determined under subparagraph 1. of this paragraph by three percent (3%); and

3. Add the result from subparagraph 2. of this paragraph to the local occupational license fee that the local jurisdiction has agreed to forgo.

(7) If the project is not located in an enhanced incentive county, and:

(a) Is located in a local jurisdiction that does not impose a local occupational license fee, the local jurisdiction shall be required to provide some alternative inducement satisfactory to the authority at the local level in order for a preliminarily approved company to receive final approval. However, the authority may waive this requirement if there are reasonable circumstances that prevent the local jurisdiction from providing a reasonable inducement; or

(b) Is located in a local jurisdiction that does impose a local occupational license fee, the jurisdiction may request that the authority waive the local occupational license fee requirements established by subsection (3), (4), (5), or (6) of this section if the local jurisdiction offers alternative inducements of similar value satisfactory to the authority. The authority shall review all requests for a waiver, and may waive the local occupational license fee requirements and instead require the local jurisdiction to provide alternative inducements of similar value if the authority determines that the circumstances warrant an alternative contribution by the local jurisdiction.

(8) Each employee paying the assessment shall simultaneously be entitled to a credit against the Kentucky individual income tax required to be withheld under KRS 141.310 equal to the state portion of the assessment and shall be entitled to a credit against the local occupational license tax equal to the local portion of the assessment.

(9) If more than one (1) local jurisdiction imposes an occupational license fee, the local jurisdiction portion of the assessment shall be prorated proportionately among the taxes imposed by the local jurisdictions unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the local jurisdiction portion of the wage assessment, in which case no proration shall be made.

(10) If a full-time employee subject to state tax imposed by KRS 141.020 is already employed by the approved company at a site other than the site of the economic development project, that full-time employee's job shall be deemed to have been created when the full-time employee is transferred to the site of the economic development project if the full-time employee's existing job is filled with a new full-time employee.

(11) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee~~[unless the approved company receives an advance disbursement as set forth in KRS 154.32-080, in which case assessment claims shall be filed with the department, but no assessment shall be withheld by the company until the advance disbursement is repaid in full]~~.

(12) Notwithstanding any other provision of the Kentucky Revised Statutes, if an approved company elects not to deduct the assessment from each payment of wages to the employee, but rather requests a reimbursement of state tax imposed by KRS 141.020 or local occupational tax in the aggregate after they have been paid to the state or local jurisdiction, no interest shall be paid by the state or by the local jurisdiction on that reimbursement.

(13) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.

(14) An approved company imposing an assessment shall make its payroll, books, and records available to the authority or the department upon request, and shall file with the authority or department documentation pertaining to the assessment as the authority or department may require.

(15) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the tax incentive agreement.

➔Section 6. KRS 154.60-020 is amended to read as follows:

(1) The authority shall develop a small business development credit program in consultation with the Office of Entrepreneurship to assist new or existing small businesses operating in the Commonwealth. The nonrefundable credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall be as provided in KRS 141.0205.

(2) The authority shall determine the terms, conditions, and requirements for application for the credit, in consultation with the Office of Entrepreneurship, subject to the provisions of subsection (3) of this section. The application shall contain identification information about the number of eligible positions created and filled, a calculation of the base employment of the small business, verification of investment of five thousand dollars ($5,000) or more in qualifying equipment or technology, and other information the authority may specify to determine eligibility for the credit.

(3) (a) The maximum amount of credits that may be committed in each fiscal year by the authority ***and shared between the Small Business Tax Credit program and the Farmer Small Business Tax Credit*** shall be capped at three million dollars ($3,000,000).

(b) In order to be eligible to receive final approval for a credit, a small business shall, within the twenty-four (24) month period immediately preceding the application submission date:

1. Create and fill one (1) or more eligible positions over the base employment; and

2. Invest five thousand dollars ($5,000) or more in qualifying equipment or technology.

(c) Each eligible position that is created and filled shall be maintained for twelve (12) months. If a full-time employee filling a newly created eligible position ceases to be employed by the small business for any reason, that employee shall be replaced within forty-five (45) days in order for the eligible position to maintain its eligible status, in addition to meeting all other applicable requirements.

(d) The small business shall submit all information necessary for the authority to determine credit eligibility for each year, and the amount of credit for which the small business is eligible.

(e) The maximum amount of credit for each small business for each year shall not exceed twenty-five thousand dollars ($25,000).

(f) The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

➔SECTION 7. A NEW SECTION OF SUBCHAPTER 60 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In order to be eligible to receive approval for a tax credit, a selling farmer shall have, at a minimum:

(a) 1. Demonstrated the active use, management, and operation of real and personal property for the production of a farm product;

2. Executed and effectuated a purchase contract to sell agricultural land with a beginning farmer for an amount evidenced by an appraisal; and

(b) Sold, conveyed, and transferred ownership of related agricultural land and assets to a beginning farmer.

(2) The selling farmer shall submit an application after consummation of the sale, transfer of title, and conveyance of a farm and farming assets together with all information necessary for the authority to determine eligibility for the tax credit.

(3) An application for the Farmer Small Business Tax Credit shall contain, at a minimum, information about the:

(a) Selling farmer and purchasing beginning farmer eligibility;

(b) Purchase contract and closing statement;

(c) Documentation, such as a deed, title conveyance for the transfer of assets, including verification of Kentucky residency; and

(d) Any other information the authority may require to determine eligibility for the credit.

(4) (a) The maximum amount of the Farmer Small Business Tax Credit for an approved selling farmer in each calendar year shall not exceed twenty-five thousand dollars ($25,000) and shall be prorated based on factors determined by the authority.

(b) The maximum amount of credit an individual may claim over a lifetime shall not exceed one hundred thousand dollars ($100,000).

(c) The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

(5) Beginning January 1, 2020, the authority may approve Farmer Small Business Tax Credits for selling farmers.

➔Section 8. Whereas, it is essential to immediately secure economic development projects and fully compete with other states to bring jobs and tax dollars to the Commonwealth, therefore, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

➔Section 9. The following KRS section is repealed:

154.32-080 Advance disbursement of portion of incentives -- Eligibility -- Computation of maximum amount -- Loan agreement -- Repayment.

Signed by Governor March 26, 2019.

CHAPTER 173

(HB 246)

AN ACT relating to reorganization.

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

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

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-

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

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

(1) The Governor.

(2) Lieutenant Governor.

(3) Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

(4) Department of Law.

(a) Attorney General.

(5) Department of the Treasury.

(a) Treasurer.

(6) Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

(7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

(1) Justice and Public Safety Cabinet:

(a) Department of Kentucky State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Office of Drug Control Policy.

(g) Office of Legal Services.

(h) Office of the Kentucky State Medical Examiner.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Office of Legislative and Intergovernmental Services.

(l) Office of Management and Administrative Services.

(m) Department of Public Advocacy.

(2) Education and Workforce Development Cabinet:

(a) Office of the Secretary.

1. Governor's Scholars Program.

2. Governor's School for Entrepreneurs Program.

(b) Office of Legal and Legislative Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of Budget and Administration.

1. Division of Human Resources.

2. Division of Administrative Services.

(e) Office of Technology Services.

(f) Office of Educational Programs.

(g) Office for Education and Workforce Statistics.

(h) Board of the Kentucky Center for Education and Workforce Statistics.

(i) Board of Directors for the Center for School Safety.

(j) Department of Education.

1. Kentucky Board of Education.

2. Kentucky Technical Education Personnel Board.

(k) Department for Libraries and Archives.

(l) Department of Workforce Investment.

1. Office for the Blind.

2. Office of Vocational Rehabilitation.

3. Office of Employment and Training.

a. Division of Grant Management and Support.

b. Division of Workforce and Employment Services.

c. Division of Unemployment Insurance.

d. Division of Apprenticeship.

4. Kentucky Apprenticeship Council.

(m) Foundation for Workforce Development.

(n) Kentucky Office for the Blind State Rehabilitation Council.

(o) Kentucky Workforce Investment Board.

(p) Statewide Council for Vocational Rehabilitation.

(q) Unemployment Insurance Commission.

(r) Education Professional Standards Board.

1. Division of Educator Preparation.

2. Division of Certification.

3. Division of Professional Learning and Assessment.

4. Division of Legal Services.

(s) Kentucky Commission on the Deaf and Hard of Hearing.

(t) Kentucky Educational Television.

(u) Kentucky Environmental Education Council.

(3) Energy and Environment Cabinet:

(a) Office of the Secretary.

1. Office of Legislative and Intergovernmental Affairs.
2. Office of Legal Services.
    a. Legal Division I.
    b. Legal Division II.
3. Office of Administrative Hearings.
4. Office of Communication.
5. Mine Safety Review Commission.
6. Office of Kentucky Nature Preserves.
7. Kentucky Public Service Commission.

(b) Department for Environmental Protection.
1. Office of the Commissioner.
2. Division for Air Quality.
3. Division of Water.
4. Division of Environmental Program Support.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.

(c) Department for Natural Resources.
1. Office of the Commissioner.
2. Division of Mine Permits.
3. Division of Mine Reclamation and Enforcement.
4. Division of Abandoned Mine Lands.
5. Division of Oil and Gas.
6. Division of Mine Safety.
7. Division of Forestry.
8. Division of Conservation.
9. Office of the Reclamation Guaranty Fund.

(d) Office of Energy Policy.
1. Division of Energy Assistance.

(e) Office of Administrative Services.
1. Division of Human Resources Management.
2. Division of Financial Management.
3. Division of Information Services.

(4) Public Protection Cabinet.
(a) Office of the Secretary.
1. Office of Communications and Public Outreach.
2. Office of Legal Services.
    a. Insurance Legal Division.
    b. Charitable Gaming Legal Division.

c. Alcoholic Beverage Control Legal Division.

d. Housing, Buildings and Construction Legal Division.

e. Financial Institutions Legal Division.

f. Professional Licensing Legal Division.

3. Office of Administrative Hearings.

4. Office of Administrative Services.

a. Division of Human Resources.

b. Division of Fiscal Responsibility.

(b) Kentucky Claims Commission.

(c) Kentucky Boxing and Wrestling Commission.

(d) Kentucky Horse Racing Commission.

1. Office of Executive Director.

a. Division of Pari-mutuel Wagering and Compliance.

b. Division of Stewards.

c. Division of Licensing.

d. Division of Enforcement.

e. Division of Incentives and Development.

f. Division of Veterinary Services.

(e) Department of Alcoholic Beverage Control.

1. Division of Distilled Spirits.

2. Division of Malt Beverages.

3. Division of Enforcement.

(f) Department of Charitable Gaming.

1. Division of Licensing and Compliance.

2. Division of Enforcement.

(g) Department of Financial Institutions.

1. Division of Depository Institutions.

2. Division of Non-Depository Institutions.

3. Division of Securities.

(h) Department of Housing, Buildings and Construction.

1. Division of Fire Prevention.

2. Division of Plumbing.

3. Division of Heating, Ventilation, and Air Conditioning.

4. Division of Building Code Enforcement.

(i) Department of Insurance.

1. Division of Insurance Product Regulation.

2. Division of Administrative Services.

3. Division of Financial Standards and Examination.

4. Division of Agent Licensing.

5. Division of Insurance Fraud Investigation.

6. Division of Consumer Protection.

7. Division of Kentucky Access.

(j) Department of Professional Licensing.

1. Real Estate Authority.

(5) Labor Cabinet.

(a) Office of the Secretary.

1. Office of General Counsel.

a. Workplace Standards Legal Division.

b. Workers' Claims Legal Division.

2. Office of Administrative Services.

a. Division of Human Resources Management.

b. Division of Fiscal Management.

c. Division of Professional Development and Organizational Management.

d. Division of Information Technology and Support Services.

3. Office of Inspector General.

(b) Department of Workplace Standards.

1.~~[Division of Apprenticeship.~~

~~2.]~~ Division of Occupational Safety and Health Compliance.

2. ~~[3.]~~ Division of Occupational Safety and Health Education and Training.

3. ~~[4.]~~ Division of Wages and Hours.

(c) Department of Workers' Claims.

1. Division of Workers' Compensation Funds.

2. Office of Administrative Law Judges.

3. Division of Claims Processing.

4. Division of Security and Compliance.

5. Division of Information Services.

6. Division of Specialist and Medical Services.

7. Workers' Compensation Board.

(d) Workers' Compensation Funding Commission.

(e) Occupational Safety and Health Standards Board.

(f) ~~[Apprenticeship and Training Council.~~

~~(g)]~~State Labor Relations Board.

(g) ~~[(h)]~~ Employers' Mutual Insurance Authority.

(h) ~~[(i)]~~ Kentucky Occupational Safety and Health Review Commission.

(i) ~~[(j)]~~ Workers' Compensation Nominating Committee.

(6) Transportation Cabinet:

(a) Department of Highways.

1. Office of Project Development.

2. Office of Project Delivery and Preservation.
3. Office of Highway Safety.
4. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Aviation.

(d) Department of Rural and Municipal Aid.
1. Office of Local Programs.
2. Office of Rural and Secondary Roads.

(e) Office of the Secretary.
1. Office of Public Affairs.
2. Office for Civil Rights and Small Business Development.
3. Office of Budget and Fiscal Management.
4. Office of Inspector General.

(f) Office of Support Services.

(g) Office of Transportation Delivery.

(h) Office of Audits.

(i) Office of Human Resource Management.

(j) Office of Information Technology.

(k) Office of Legal Services.

(7) Cabinet for Economic Development:

(a) Office of the Secretary.
1. Office of Legal Services.
2. Department for Business Development.
3. Department for Financial Services.
a. Kentucky Economic Development Finance Authority.
b. Finance and Personnel Division.
c. IT and Resource Management Division.
d. Compliance Division.
e. Incentive Administration Division.
f. Bluegrass State Skills Corporation.
4. Office of Marketing and Public Affairs.
a. Communications Division.
b. Graphics Design Division.
5. Office of Workforce, Community Development, and Research.
6. Office of Entrepreneurship.
a. Commission on Small Business Advocacy.

(8) Cabinet for Health and Family Services:

(a) Office of the Secretary.

(b) Office of Health Policy.

(c) Office of Legal Services.

(d) Office of Inspector General.

(e) Office of Communications and Administrative Review.

(f) Office of the Ombudsman.

(g) Office of Finance and Budget.

(h) Office of Human Resource Management.

(i) Office of Administrative and Technology Services.

(j) Department for Public Health.

(k) Department for Medicaid Services.

(l) Department for Behavioral Health, Developmental and Intellectual Disabilities.

(m) Department for Aging and Independent Living.

(n) Department for Community Based Services.

(o) Department for Income Support.

(p) Department for Family Resource Centers and Volunteer Services.

(q) Office for Children with Special Health Care Needs.

(r) Governor's Office of Electronic Health Information.

(s) Office of Legislative and Regulatory Affairs.

(9) Finance and Administration Cabinet:

(a) Office of the Secretary.

(b) Office of the Inspector General.

(c) Office of Legislative and Intergovernmental Affairs.

(d) Office of General Counsel.

(e) Office of the Controller.

(f) Office of Administrative Services.

(g) Office of Policy and Audit.

(h) Department for Facilities and Support Services.

(i) Department of Revenue.

(j) Commonwealth Office of Technology.

(k) State Property and Buildings Commission.

(l) Office of Equal Employment Opportunity and Contract Compliance.

(m) Kentucky Employees Retirement Systems.

(n) Commonwealth Credit Union.

(o) State Investment Commission.

(p) Kentucky Housing Corporation.

(q) Kentucky Local Correctional Facilities Construction Authority.

(r) Kentucky Turnpike Authority.

(s) Historic Properties Advisory Commission.

(t) Kentucky Tobacco Settlement Trust Corporation.

(u) Kentucky Higher Education Assistance Authority.

(v) Kentucky River Authority.

(w) Kentucky Teachers' Retirement System Board of Trustees.

(x) Executive Branch Ethics Commission.

(10) Tourism, Arts and Heritage Cabinet:

(a) Kentucky Department of Tourism.

1. Division of Tourism Services.
2. Division of Marketing and Administration.
3. Division of Communications and Promotions.

(b) Kentucky Department of Parks.

1. Division of Information Technology.
2. Division of Human Resources.
3. Division of Financial Operations.
4. Division of Facilities Management.
5. Division of Facilities Maintenance.
6. Division of Customer Services.
7. Division of Recreation.
8. Division of Golf Courses.
9. Division of Food Services.
10. Division of Rangers.
11. Division of Resort Parks.
12. Division of Recreational Parks and Historic Sites.

(c) Department of Fish and Wildlife Resources.

1. Division of Law Enforcement.
2. Division of Administrative Services.
3. Division of Engineering, Infrastructure, and Technology.
4. Division of Fisheries.
5. Division of Information and Education.
6. Division of Wildlife.
7. Division of Marketing.

(d) Kentucky Horse Park.

1. Division of Support Services.
2. Division of Buildings and Grounds.
3. Division of Operational Services.

(e) Kentucky State Fair Board.

1. Office of Administrative and Information Technology Services.
2. Office of Human Resources and Access Control.
3. Division of Expositions.
4. Division of Kentucky Exposition Center Operations.
5. Division of Kentucky International Convention Center.

6. Division of Public Relations and Media.
7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.

(f) Office of the Secretary.
1. Office of Finance.
2. Office of Government Relations and Administration.
3. Office of Film and Tourism Development.

(g) Office of Legal Affairs.

(h) Office of Human Resources.

(i) Office of Public Affairs and Constituent Services.

(j) Office of Arts and Cultural Heritage.

(k) Kentucky African-American Heritage Commission.

(l) Kentucky Foundation for the Arts.

(m) Kentucky Humanities Council.

(n) Kentucky Heritage Council.

(o) Kentucky Arts Council.

(p) Kentucky Historical Society.
1. Division of Museums.
2. Division of Oral History and Educational Outreach.
3. Division of Research and Publications.
4. Division of Administration.

(q) Kentucky Center for the Arts.
1. Division of Governor's School for the Arts.

(r) Kentucky Artisans Center at Berea.

(s) Northern Kentucky Convention Center.

(t) Eastern Kentucky Exposition Center.

(11) Personnel Cabinet:

(a) Office of the Secretary.

(b) Department of Human Resources Administration.

(c) Office of Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Office of Administrative Services.

(f) Office of Legal Services.

(g) Governmental Services Center.

(h) Department of Employee Insurance.

(i) Office of Diversity, Equality, and Training.

(j) Office of Public Affairs.

III. Other departments headed by appointed officers:

(1) Council on Postsecondary Education.

(2) Department of Military Affairs.

(3) Department for Local Government.

(4) Kentucky Commission on Human Rights.

(5) Kentucky Commission on Women.

(6) Department of Veterans' Affairs.

(7) Kentucky Commission on Military Affairs.

(8) Office of Minority Empowerment.

(9) Governor's Council on Wellness and Physical Activity.

(10) Kentucky Communications Network Authority.

➔Section 2. KRS 151B.020 is amended to read as follows:

(1) The Education and Workforce Development Cabinet is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, units listed in KRS 12.020, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) The Department of Workforce Investment, which is hereby created and established within the Education and Workforce Development Cabinet. The department shall be directed and managed by a commissioner who shall be appointed by the Governor under the provisions of KRS 12.040, and who shall report to the secretary of the Education and Workforce Development Cabinet. The department shall be composed of the following offices:

1. The Office of Vocational Rehabilitation, which is created by KRS 151B.185;

2. The Office for the Blind established by KRS 163.470; ~~[and]~~

3. The Office of Employment and Training, which is created by KRS 151B.280***; and***

4. The Kentucky Apprenticeship Council, which shall be attached to the department for administrative purposes only.

(b) The Unemployment Insurance Commission established by KRS 341.110.

(3) The executive officer of the cabinet shall be the secretary of the Education and Workforce Development Cabinet. The secretary shall be appointed by the Governor pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.

(4) The secretary of the Education and Workforce Development Cabinet and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take

depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the Education and Workforce Development Cabinet may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the Education and Workforce Development Cabinet shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs except for programs and federal funds within the authority of the Department of Education, the Kentucky Board of Education, and the Education Professional Standards Board.

➔Section 3. KRS 336.015 is amended to read as follows:

(1) The secretary of the Labor Cabinet shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor~~[, apprenticeship],~~ workers' compensation, and all other matters previously under the jurisdiction of the Department of Labor.

(2) The Labor Cabinet shall consist of the Office of the Secretary, the Department of Workers' Claims, and the Department of Workplace Standards.

(3) The following agencies are attached to the cabinet for administrative purposes only:

(a) Kentucky Occupational Safety and Health Review Commission;

(b) State Labor Relations Board;

(c) Workers' Compensation Funding Commission;

(d) Occupational Safety and Health Standards Board;

(e) ~~[Apprenticeship and Training Council;~~

~~(f)]~~ Employers' Mutual Insurance Authority; and

(f)~~[(g)]~~ Workers' Compensation Nominating Committee.

➔Section 4. KRS 336.020 is amended to read as follows:

(1) The Department of Workplace Standards shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 and shall be divided for administrative purposes into the ~~[Division of Apprenticeship, the]~~Division of Occupational Safety and Health Compliance, the Division of Occupational Safety and Health Education and Training, and the Division of Wages and Hours. Each of these divisions shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.

(2) The Department of Workers' Claims shall be headed by a commissioner appointed by the Governor, and confirmed by the Senate in accordance with KRS 342.228. The department shall be divided for administrative purposes into the Office of Administrative Law Judges, the Division of Claims Processing, the Division of Security and Compliance, the Division of Workers' Compensation Funds, and the Division of Specialist and Medical Services. The Office of Administrative Law Judges shall be headed by a chief administrative law judge appointed in accordance with KRS 342.230. Each division in the department shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050. The Workers' Compensation Board shall be attached to the Department of Workers' Claims for administrative purposes only.

(3) The Office of General Counsel for the Labor Cabinet, the Office of Administrative Services, and the Office of Inspector General are attached to the Office of the Secretary of the Labor Cabinet.

(4) (a) The Office of General Counsel for the Labor Cabinet shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.

(b) The Office of General Counsel shall be divided for administrative purposes into the Workplace Standards Legal Division and the Workers' Claims Legal Division.

(c) Each legal division shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.

(5) (a) The Office of Administrative Services shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040.

(b) The Office of Administrative Services shall be divided for administrative purposes into the Division of Fiscal Management, the Division of Human Resources Management, the Division of Information Technology and Support Services, and the Division of Professional Development and Organizational Management. Each division shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.

(6) The Office of Inspector General shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040.

➔Section 5. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the ~~[Division of Apprenticeship and]~~Division of Wages and Hours in the Department of Workplace Standards, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of June 30 preceding January 1 of each year, for the period remaining until December 31, 2029. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk. On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying its own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.

(c) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(d) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) (a) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(b) Beginning on January 1, 2020, all assessments shall be electronically remitted to the funding commission quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely when filed and remitted using the appropriate electronic pay system as prescribed by the funding commission. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from the insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A self-insured group may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a self-insured group.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each self-insured group to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or self-insured group may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or self-insured group from the obligation to furnish same to the funding commission. The Office of Employment and Training, Education and Workforce Development Cabinet, is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provision of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk.

➔Section 6. KRS 343.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Apprentice" means a worker at least sixteen (16) years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn an apprenticeable occupation as provided in 29 C.F.R. pt. 29;

(2) "Apprenticeship agreement" means a written agreement, complying with 29 C.F.R. pt. 29 between an apprentice and either the apprentice's program sponsor, or an apprenticeship committee acting as agent for the program sponsors, which contains the terms and conditions of the employment and training of the apprentice;

(3) "Commissioner" means commissioner of the Department of ***Workforce Investment***~~[Workplace Standards]~~, under the direction and supervision of the secretary of the ***Education and Workforce Development***~~[Labor]~~ Cabinet, or any person authorized to act in his or her behalf~~[, having jurisdiction over laws or regulations governing wages and hours of employees working in this state]~~;

(4) "Council" means ***the Kentucky Apprenticeship Council***~~[the Commonwealth's Apprenticeship and Training Council]~~, which provides advice and guidance to the Kentucky ***Education and Workforce Development***~~[Labor]~~ Cabinet regarding the Commonwealth's apprenticeship program;

(5) "Supervisor" means supervisor of apprenticeship~~[and training]~~;

(6) "Trainee" means a person at least sixteen (16) years of age who has entered into an on-the-job training agreement with an employer or an association of employers or an organization of employees in a construction occupation under a program which has been approved by a federal agency as promoting equal employment opportunity in conjunction with federal-aid construction projects;

(7) "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices as required under 29 C.F.R. pts. 29 and 30, including such matters as the requirement for a written apprenticeship agreement;

(8) "On-the-job training program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of a trainee, including such matters as the requirement for a written on-the-job training agreement other than an apprenticeship program; provided, however, that said program has been approved by a federal agency as promoting equal employment opportunity in conjunction with federal-aid construction projects;

(9) "Sponsor" means any person, association, committee, or organization in whose name or title the program is or is to be registered, irrespective of whether such entity is an employer;

(10) "Employer" means any person or organization employing an apprentice or trainee whether or not such person or organization is a party to an apprenticeship or on-the-job training agreement with the apprentice or trainee; and

(11) "Related instruction" means an organized and systematic form of instruction designed to provide the apprentice or trainee with knowledge of the theoretical and technical subjects related to the apprentice's occupation.

➔Section 7. KRS 343.020 is amended to read as follows:

(1) ***The Kentucky Apprenticeship Council is hereby created and established as an administrative body charged with providing advice to the commissioner on matters affecting apprenticeship policy.***

(2) (a) ***The Kentucky Apprenticeship Council shall consist of six (6) members appointed by the Governor as follows: two (2) members who shall represent employees or apprentices, two (2) members who shall represent employers or apprenticeship program sponsors, and two (2)*** ~~[The Governor shall appoint an Apprenticeship and Training Council composed of four (4) representatives from employer organizations, four (4) representatives from employee organizations, and three (3)]~~at-large members***. These six (6) members*** ~~[who]~~ shall serve for a term of four (4) years and until their successors are appointed and qualified. The ~~[commissioner of the Department of Workplace Standards, the]~~commissioner of the Department for Workforce Investment ***shall serve as the seventh member and be chair of the council.***~~[, and the chancellor for the Technical Institutions' Branch in the Kentucky Community and Technical College System shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council.~~

~~(b) The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of the Department of Workplace Standards shall have the right to cast the tie breaking vote. Each member of the council shall receive his or her actual and necessary expenses incurred in attending its meetings.]~~

(b)~~[(c)]~~ The council shall meet at the call of the commissioner~~[and shall aid him or her in formulating policies for the effective administration of this chapter. The commissioner with the advice of the council shall have the authority to make and revise such rules and regulations as he or she may deem~~

~~appropriate to carry out the provisions and purposes of this chapter~~].***A majority of the members of the council, except for the commissioner of the Department of Workforce Investment, shall constitute a quorum for the transaction of business.***

(c) Any member appointed to fill a vacancy occurring for any reason other than by expiration of a term shall be appointed for the remainder of the unexpired term. Any member whose term has expired, however, shall serve until his or her successor is appointed and qualified.

(d) Members shall be reimbursed for necessary expenses incurred in fulfillment of their duties on the council in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. No member of the council, however, shall be paid for his or her attendance at any meeting.

~~[(2) (a) On July 15, 2014, the term of the at-large members appointed on December 31, 2011, shall expire, and the Governor shall appoint three (3) at-large members representing the general public to the Apprenticeship and Training Council.~~

~~(b) Members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.]~~

(3) The council shall be attached to the ***Department of Workforce Investment within the Education and Workforce Development***~~[Labor]~~ Cabinet for administrative purposes.

➔Section 8. KRS 343.030 is amended to read as follows:

The commissioner, with the approval of the Governor, may appoint a supervisor of apprenticeship~~[and training. This appointment shall be subject to the confirmation of the council by a majority vote]~~. He or she may also appoint such clerical, technical, and professional help as shall be necessary to effectuate the purposes of this chapter.

➔Section 9. KRS 343.040 is amended to read as follows:

The supervisor, under the direction of the commissioner~~[and with the advice and guidance of the council]~~, may:

(1) Administer this chapter~~[in cooperation with the Apprenticeship and Training council]~~;

(2) Set up conditions and training standards for apprenticeship or on-the-job training programs and agreements;

(3) Act as secretary to the council;

(4) Approve, if in his or her opinion approval is to the best interest of both parties, any apprenticeship or on-the-job training program and agreement submitted to him or her by the parties thereto, that meets the standards established under this chapter;

(5) Keep a record of apprenticeship and on-the-job training programs and agreements and their disposition;

(6) Issue certificates of completion of apprenticeship and on-the-job training; and

(7) Perform such other duties as are necessary to carry out the intention of this chapter.

➔Section 10. KRS 164.7884 is amended to read as follows:

(1) As used in this section:

(a) "Academic year" means July 1 through June 30 of each year;

(b) "Apprentice" has the same meaning as in KRS 343.010;

(c) "Eligible student" means an eligible high school student who has graduated from high school or a student eligible under KRS 164.7879(3)(e);

(d) "Registered apprenticeship program" means an apprenticeship program that:

1. Is established in accordance with the requirements of KRS Chapter 343;

2. Requires a minimum of two thousand (2,000) hours of on-the-job work experience;

3. Requires a minimum of one hundred forty-four (144) hours of related instruction for each year of the apprenticeship; and

4. Is approved by the ***Education and Workforce Development***~~[Kentucky Labor]~~ Cabinet;

(e) "Related instruction" has the same meaning as in KRS 343.010; and

(f) "Sponsor" has the same meaning as in KRS 343.010.

(2) Notwithstanding KRS 164.7881, an eligible student who earned a KEES award and is an apprentice in a registered apprenticeship program shall be eligible for a Kentucky educational excellence scholarship.

(3) (a) Beginning with the 2018-2019 academic year, an eligible student enrolled in a registered apprenticeship program may receive reimbursement of tuition, books, required tools, and other approved expenses required for participation in the registered apprenticeship program, upon certification by the sponsor and approval by the authority.

(b) The reimbursement amount an eligible student may receive in an academic year shall not exceed the student's KEES award maximum.

(c) The total reimbursement amount an eligible student may receive under this section shall not exceed the student's KEES award maximum multiplied by four (4).

(4) Eligibility for a KEES scholarship under this section shall terminate upon the earlier of:

(a) The expiration of five (5) years following the eligible student's graduation from high school or receiving a GED, except as provided in KRS 164.7881(5); or

(b) The eligible student's successful completion of the registered apprenticeship program.

(5) The authority shall promulgate administrative regulations establishing the procedures for making awards under this section in consultation with ~~[the Kentucky Labor Cabinet,]~~the Kentucky Education and Workforce Development Cabinet~~[,]~~ and the Kentucky Economic Development Cabinet.

➔Section 11. KRS 198B.658 is amended to read as follows:

(1) An applicant for a master heating, ventilation, and air conditioning contractor's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;

(c) 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades as a journeyman heating, ventilation, and air conditioning mechanic for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor; or

2. Have been regularly and principally employed or engaged in the practice of heating, ventilation, and air conditioning contracting as a master heating, ventilation, and air conditioning contractor, or equivalent thereof, for not less than two (2) years in Kentucky or in a jurisdiction other than Kentucky, as demonstrated by verifiable documentation;

(d) Have passed an examination prescribed by the department to determine the applicant's competency to practice heating, ventilation, and air conditioning contracting; and

(e) Have paid a fee as established in administrative regulations promulgated by the department.

(2) An applicant for a journeyman heating, ventilation, and air conditioning mechanic's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;

(c) 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor; or

2. Have been regularly and principally employed or engaged in the performance of heating, ventilation, and air conditioning work for not less than two (2) years in Kentucky or in a jurisdiction other than Kentucky, as demonstrated by verifiable documentation;

(d) Have passed an examination prescribed by the department to determine the applicant's competency to install, maintain, and repair heating and cooling systems, heating and cooling service, burner service, and hydronic systems; and

(e) Have paid a fee as established in administrative regulations promulgated by the department.

(3) If an applicant has obtained, while exempt from licensure under 198B.674(2), (7), (8), (10), (13), or (14), work experience that the department determines to be equivalent to the requirements of subsection (1)(c) or (2)(c) of this section, that experience may be considered as equivalent to one (1) year of employment toward the licensure requirements for a master heating, ventilation, and air conditioning contractor or journeyman heating, ventilation, and air conditioning mechanic, as applicable, not to exceed one (1) year.

(4) (a) The department shall issue an apprentice heating, ventilation, and air conditioning mechanic's certificate to any person who registers as an apprentice with the department.

(b) The department shall establish by administrative regulation the minimum number of hours of experience required by apprentices and shall maintain an apprentice register to credit an apprentice for hours worked under the supervision of a master heating, ventilation, and air conditioning contractor and journeyman heating, ventilation, and air conditioning mechanic. Experience gained under the supervision of a Kentucky licensed master heating, ventilation, and air conditioning contractor while registered as an apprentice with the ***Education and Workforce Development***~~[Kentucky Labor]~~ Cabinet, Department of ***Workforce Investment***~~[Workplace Standards]~~, in cooperation with the United States Department of Labor, Bureau of Apprenticeship and Training shall be accepted toward the two (2) year experience requirement for a journeyman heating, ventilation, and air conditioning mechanic license.

(c) The apprentice register shall include the name, address, Social Security number, employer, and dates of employment of the apprentice.

(d) The apprentice shall notify the department in writing of any change in address or employer.

(e) Apprentices and pre-apprentices shall not be required to pay a fee to obtain a certificate of registration or to renew a registration.

(5) The satisfactory completion of one (1) academic year of a department-approved curriculum or one (1) year of professional training in heating, ventilation, and air conditioning work may be considered as equivalent to one (1) year of employment toward the licensure requirements for a journeyman heating, ventilation, and air conditioning mechanic, not to exceed one (1) year.

(6) The satisfactory completion of one (1) academic year of teaching experience in a department-approved or state-approved technical education program in heating, ventilation, and air conditioning shall be considered as equivalent to one (1) year of employment, as required by subsection (1)(c) or (2)(c) of this section. No more than one (1) year of approved teaching experience may be used in meeting the requirements of subsection (1)(c) or (2)(c) of this section.

➔Section 12. The General Assembly confirms in part Executive Order 2018-586, dated July 17, 2018, to the extent that it is not otherwise confirmed or superseded by this Act. The General Assembly confirms the entirety of that order, except for Section (C) of Part VIII, which it does not confirm.

Signed by Governor March 26, 2019.

CHAPTER 174

(HB 243)

AN ACT relating to the protection of Medal of Honor recipients.

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

➔Section 1. KRS 16.065 is amended to read as follows:

In addition to the performance of all duties relating to the Department of Kentucky State Police, the department shall perform the following functions:

(1) Security of state facilities located in Frankfort;

(2) Highway enforcement;~~[and]~~

(3) Water safety enforcement as provided in KRS Chapter 235***; and***

(4) Personal protection of a Medal of Honor recipient who:

(a) Is a current Kentucky resident;

(b) Is attending any public event or ceremony occurring within the Commonwealth of Kentucky, to which he or she has received an official written invitation;

(c) Is representing for no reason other than being a recipient of the Medal of Honor; and

(d) Has requested protection, in writing and with a copy of the official invitation, to the department no less than fourteen (14) days prior to the event;

not to exceed six (6) instances of protection per year.

Signed by Governor March 26, 2019.

CHAPTER 175

(HB 237)

AN ACT relating to permitting expedited partner therapy for a sexually transmitted gonorrhea or chlamydia infection.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, unless the context requires otherwise:

(a) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(b) "Expedited partner therapy" means the prescribing or dispensing of antibiotic drugs to a practitioner's diagnosed patient's sexual partner or partners for the same disease without examination of that diagnosed patient's partner or partners;

(c) "Legend drug" means any drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement, "Caution: Federal law prohibits dispensing without prescription.";

(d) "Practitioner" means medical or osteopathic physicians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes advanced practice registered nurses as authorized in KRS 314.011 and 314.042 and physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858; and

(e) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans.

(2) Notwithstanding any other provision of law, a practitioner who is licensed to diagnose and prescribe drugs for a sexually transmitted gonorrhea or chlamydia infection who diagnoses a sexually transmitted gonorrhea or chlamydia infection in a patient may provide expedited partner therapy for a sexually transmitted gonorrhea or chlamydia infection to that patient's sexual partner or partners.

(3) A practitioner that provides expedited partner therapy shall:

(a) Adhere to prescribing and dispensing standards for expedited partner therapy pursuant to the current United States Centers for Disease Control and Prevention Sexually Transmitted Disease Treatment Guidelines for expedited partner therapy; and

(b) Utilize forms established by the Department for Public Health for patients and their sexual partner or partners explaining expedited partner therapy.

(4) A practitioner who reasonably and in good faith renders expedited partner therapy in accordance with this section and administrative regulations promulgated by the board having professional jurisdiction shall not be subject to civil or criminal liability or be deemed to have engaged in unprofessional conduct.

Signed by Governor March 26, 2019.

CHAPTER 176

(HB 224)

AN ACT relating to durable medical equipment covered benefits and reimbursement under Medicaid.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) (a) As used in this section, "durable medical equipment" means equipment which:

1. Can withstand repeated use;

2. Is primarily and customarily used to serve a medical purpose;

3. Generally is not useful to a person in the absence of an illness or injury; and

4. Is appropriate for use in the home.

(b) As used in this section, "durable medical equipment" does not include:

1. Enteral nutrition;

2. Eye prosthetics;

3. Home infusion;

4. Orthotics;

5. Prosthetics; or

6. Automated external defibrillators under Healthcare Common Procedure Codes K0606 and E0617.

(2) The Department for Medicaid Services shall reimburse a supplier of durable medical equipment, prosthetics, orthotics, and supplies at no less than ninety percent (90%) of the state Medicaid program durable medical equipment fee schedule and shall require Medicaid managed care organizations to reimburse the same amount as the Department for Medicaid Services reimburses for the same service or item of durable medical equipment, prosthetics, orthotics, and supplies. This subsection shall apply to those healthcare codes and services included in Section 1903(i)(27) of Title XIX of the Social Security Act.

(3) The department shall require Medicaid managed care organizations to reimburse suppliers of durable medical equipment, prosthetics, orthotics, and supplies for manually priced items in the Medicaid program durable medical equipment fee schedule at the manufacturer's suggested retail price minus eighteen percent (18%) pricing where there is a manufacturer's suggested retail price, and at invoice price plus twenty percent (20%) for miscellaneous Healthcare Common Procedure Coding System codes where there is no manufacturer's suggested retail price.

(4) The department shall require Medicaid managed care organizations to cover, at a minimum, the same Healthcare Common Procedure Coding System codes and the same quantities of medical supplies, equipment, or services as are established on the Kentucky Medicaid program durable medical equipment fee schedule or Kentucky Medicaid medical policy.

(5) The department shall ensure that the allowable timeframe for claim submissions by suppliers of durable medical equipment, prosthetics, orthotics, and supplies shall equal the timeframe allowed for any discrepancy during the Medicaid managed care organization audit or recoupment process for that claim.

(6) The reimbursement for suppliers of durable medical equipment established pursuant to this section shall only be available to a durable medical equipment supplier who is an in-network provider of the beneficiary's Medicaid managed care organization.

Became law without Govenor's signature March 27, 2019.

CHAPTER 177

(HB 270)

AN ACT amending the 2018-2020 executive branch biennial budget, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. Notwithstanding KRS 157.618, the School Facilities Construction Commission is authorized to make loans from the Emergency and Targeted Investment Fund in fiscal year 2018-2019 and fiscal year 2019-2020 to a school district that meets the following criteria:

(1) The school district has levied a tax rate subject to recall by January 1, 2014, in addition to the five cents levied pursuant to KRS 157.440(1)(b) and committed the receipts to debt service, new facilities, or major renovations of existing facilities;

(2) The school district has levied the tax rate subject to recall under the provisions of KRS 157.621(2) on or after January 1, 2018;

(3) Funds collected under the provisions of KRS 157.360, 157.440, 157.621, and 160.613 and restricted for capital needs, including any state funds appropriated for the same purpose, are insufficient to meet the school district’s debt service obligations in the fiscal year in which the loan is requested; and

(4) The school district has presented a financial plan to the Commission that shows sufficient excess funds in its capital accounts in future fiscal years to repay the loan during the term set by the Commission.

Loans made under the provisions of this section shall be limited to an amount no greater than $150,000 in any single fiscal year, with a cumulative total of $200,000, shall be repaid over a term of no greater than five years, and shall be repaid at a rate of interest to be set by the Commission, except that the rate of interest shall not be higher than the highest rate of interest paid by the Commission on any bond issued in the previous fiscal year. No loan proceeds shall be used by the district for a purpose other than paying its debt service obligations. Loan payments by the school district, including interest, shall be made to the credit of the Emergency and Targeted Investment Fund.

➔Section 2. Whereas the provisions of this Act provide ongoing support for programs funded in the 2018-2020 executive branch biennial budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Became law without Govenor's signature March 27, 2019.

CHAPTER 178

(HB 351)

AN ACT relating to community education.

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

➔Section 1. KRS 160.158 is amended to read as follows:

(1) A state Council for Community Education shall be established for the purpose of advising the commissioner of education and the Department of Education on issues relating to community education programs and making recommendations for the funding of local community education programs.

(2) The council shall have a membership of fifteen (15) persons, appointed by the Governor. Membership may include, but not be limited to, representatives of the following groups:

(a) Civic organizations;

(b) Community-based organizations;

(c) Community education organizations;

(d) Local government;

(e) Local school district administrators;

(f) Parent organizations;

(g) Postsecondary education;

(h) School boards; and

(i) Teachers.

(3) ***In the event of a vacancy on the council, the Kentucky Community Education Association and the commissioner or his or her designee for community education shall work jointly to create a list of at least three (3) nominees to present to the Governor for consideration. If more than one (1) vacancy exists on the council at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor may select the appointee from among the nominees.***

(4) The commissioner of education or the commissioner's designee shall convene the first meeting of the council for the purpose of establishing the bylaws of the council and electing officers to include: chairman, vice chairman, and secretary. ***The council shall schedule all subsequent meetings.***

(5)~~[(4)]~~ The council shall not meet more than four (4) times annually. Members may be reimbursed for expenses but shall not receive a per diem allowance.

Became law without Govenor's signature March 27, 2019.

CHAPTER 179

(HB 393)

AN ACT relating to the Kentucky Office of Homeland Security.

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

➔Section 1. KRS 39G.010 is amended to read as follows:

(1) The Kentucky Office of Homeland Security shall be attached to the Office of the Governor and shall be headed by an executive director appointed by the Governor.

(2) The executive director shall:

(a) Publicize the findings of the General Assembly stressing the dependence on Almighty God as being vital to the security of the Commonwealth by including the provisions of KRS 39A.285(3) in its agency training and educational materials. The executive director shall also be responsible for prominently displaying a permanent plaque at the entrance to the state's Emergency Operations Center stating the text of KRS 39A.285(3);

(b) Establish and chair an interagency working group composed of the chair of the Senate Veterans, Military Affairs, and Public Protection Committee, the chair of the House of Representatives Seniors, Military Affairs, and Public Safety Committee, state agency representation, and private agency representation. The working group shall have the purpose of identifying risks and needs and making a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, electromagnetic pulse, agro-, eco-, or cyber-terrorism;

(c) Serve as the State Appointed Administrator for the United States Department of Homeland Security;

(d) Implement all homeland security presidential and gubernatorial directives, including directives pertaining to state and local compliance with the National Incident Management System;

(e) Coordinate the efforts of the Kentucky Office of Homeland Security with the efforts of the federal Department of Homeland Security;

(f) Accept and allocate any homeland security funds in compliance with applicable federal and state laws and administrative regulations; and

(g) Inform the members of the General Assembly of the process by which a public agency applies for a federal homeland security grant and shall provide the following information to the members at least ninety (90) days before an application deadline:

1. The application deadline;

2. How a public agency can obtain an application form;

3. How a public agency can obtain assistance in filling out an application form; and

4. Any other information that would be helpful to a public agency interested in applying for a federal homeland security grant.

(3) The executive director may delegate responsibilities created under this section to another executive branch agency.

(4) The Kentucky Office of Homeland Security shall:

(a) Develop and publish a comprehensive statewide homeland security strategy that coordinates state and local efforts to detect, deter, mitigate, and respond to a terrorist incident;

(b) Develop a comprehensive strategy addressing how state and federal funds and other assistance will be allocated within the state to purchase specialized equipment required to prevent and respond effectively and safely to terrorist incidents;

(c) Urge the state and local governments to exceed minimum federal requirements for receiving assistance in preparing to respond to acts of war or terrorism in the hope that the Commonwealth will become a national leader in this preparation;

(d) Provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation, and advice, or other services needed to respond to these incidents;

(e) Administer the Kentucky Intelligence Fusion Center and coordinate its operations with other federal, state, and local agencies;

(f) 1. Form the Commonwealth Activity Taxonomy System (CATS) Committee to develop and oversee a system of evaluating special events to determine, plan, mitigate, and respond to risks and threats to the Commonwealth.

2. The committee shall consist of members from no fewer than five (5) state agencies, including:

a. Kentucky Office of Homeland Security;

b. Kentucky Division of Emergency Management;

c. Kentucky National Guard; and

d. Kentucky State Police.

3. The committee shall establish a quantitative system to identify and rank state public events, to maintain public safety, and to protect public property.

4. Membership shall be determined by the state agencies identified in subparagraph 2. of this paragraph, and the executive director of the Kentucky Office of Homeland Security shall appoint other members as necessary.

5. The committee shall elect a chair and a vice chair from its members who shall serve in those capacities for a term of two (2) years. A majority of the committee shall constitute a quorum for the purposes of conducting business.

6. The committee shall meet when called by the chair, or at the request of the executive director of the Kentucky Office of Homeland Security; and

(g) ~~[(f)]~~ Promulgate any administrative regulations necessary to carry out the provisions of this chapter.

(5) The adjutant general, or his or her designee, shall concurrently notify the Governor and the executive director of the Office of Homeland Security of a disaster or emergency involving homeland security. The adjutant general, or his or her designee, shall be the Governor's primary point of contact for managing and responding to a disaster or emergency involving homeland security.

Became law without Govenor's signature March 27, 2019.

CHAPTER 180

(HB 429)

AN ACT relating to medical malpractice.

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

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

(1) A claimant commencing any action identified in KRS 413.140(1)(e), or against a long-term-care facility as defined in KRS 216.510 alleging that the long-term care facility failed to provide proper care to one (1) or more residents of the facility, shall file a certificate of merit with the complaint in the court in which the action is commenced.

(2) "Certificate of merit" means an affidavit or declaration that:

(a) The claimant has reviewed the facts of the case and has consulted with at least one (1) expert qualified pursuant to the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence who is qualified to give expert testimony as to the standard of care or negligence and who the claimant or his or her counsel reasonably believes is knowledgeable in the relevant issues involved in the particular action, and has concluded on the basis of review and consultation that there is reasonable basis to commence the action;

(b) The claimant was unable to obtain the consultation required by paragraph (a) of this subsection because a limitation of time established by KRS Chapter 413 would bar the action and that the consultation could not reasonably be obtained before that time expired. An affidavit or declaration executed pursuant to this paragraph shall be supplemented by an affidavit or declaration pursuant to paragraph (a) of this subsection or paragraph (c) of this subsection within sixty (60) days after service of the complaint or the suit shall be dismissed unless the court grants an extension for good cause; or

(c) The claimant was unable to obtain the consultation required by paragraph (a) of this subsection because the claimant or his or her counsel had made at least three (3) separate good faith attempts with three (3) different experts to obtain a consultation and that none of those contacted would agree to a consultation; so long as none of those contacted gave an opinion that there was no reasonable basis to commence the action.

(3) A single certificate of merit is required for an action even if more than one (1) defendant has been named in the complaint or is subsequently named.

(4) A certificate of merit is not required where the claimant intends to rely solely on one (1) or more causes of action for which expert testimony is not required, including claims of res ipsa loquitur and lack of informed consent, in which case the complaint shall be accompanied by an affidavit or declaration that no cause of action is asserted for which expert testimony is required.

(5) If a request by the claimant for the records of the claimant's medical treatment by the defendants has been made and the records have not been produced, the claimant shall not be required to file a certificate of merit under this section until ninety (90) days after the records have been produced. For purposes of this section, "records" includes but is not limited to paper or electronic copies of dictations, video recordings, fetal heart monitor strips, and imaging studies.

(6) The identity and statements of an expert relied upon in subsection (2) of this section above are not discoverable except:

(a) When a claim is made under subsection (2)(c) of this section that the claimant was unable to obtain the required consultation with an expert, the court, upon the request of a defendant made prior to compliance by the claimant with this section, may require the claimant to divulge to the court, in camera and without disclosure by the court to any other party, the names of the physicians refusing to consult; or

(b) If any party to an action hereto prevails on the basis of the failure of an opposing party to offer any competent expert testimony, the court may, upon motion, for good cause shown compel the opposing party or party's counsel to provide to the court the name of any expert consulted and any written materials relied upon in executing the certificate.

(7) The claimant, in lieu of serving a certificate of merit, may provide the defendant or defendants with expert information in the form required by the Kentucky Rules of Civil Procedure. Nothing in this section requires the disclosure of any "consulting" or nontrial expert, except as expressly stated in this section.

➔Section 2. The following KRS sections are repealed:

216C.005 Purpose of chapter. (Declared void -- See LRC Note Below)

216C.010 Definitions for chapter. (Declared void -- See LRC Note Below)

216C.020 Review by medical review panel required for all malpractice and malpractice-related claims -- Exceptions -- Timing. (Declared void -- See LRC Note Below)

216C.030 Parties may agree to not submit malpractice or malpractice-related claim to medical review panel. (Declared void -- See LRC Note Below)

216C.040 Tolling of statute of limitations -- When complaint considered filed -- Filing fee. (Declared void -- See LRC Note Below)

216C.050 Service of copy of complaint -- When service is complete. (Declared void

216C.060 Composition of medical review panels -- Expediting of review of proposed complaint -- Time allowed for presentation of evidence. (Declared void -- See LRC Note Below)

216C.070 Selection of chairperson of medical review panel. (Declared void -- See LRC Note Below)

216C.080 Health care providers eligible for medical review panel selection. (Declared void -- See LRC Note Below)

216C.090 Selection of non-attorney members of medical review panel. (Declared void -- See LRC Note Below)

216C.100 Challenges of selection of member of medical review panel. (Declared void -- See LRC Note Below)

216C.110 Notice to cabinet of medical review panel membership. (Declared void -- See LRC Note Below)

216C.120 Relief from serving as member of medical review panel -- Conditions -- Procedure. (Declared void -- See LRC Note Below)

216C.130 Sanctions for failing to act as required. (Declared void -- See LRC Note Below)

216C.140 Removal and replacement of panel chairperson. (Declared void -- See LRC Note Below)

216C.150 Removal and replacement of panel member. (Declared void -- See LRC Note Below)

216C.160 Submission of evidence to medical review panel. (Declared void -- See LRC Note Below)

216C.170 Restriction on ex parte communication with panel member -- Panel's right to all necessary and relevant information. (Declared void -- See LRC Note Below)

216C.180 Opinion of medical review panel after submission of all evidence -- Conclusion to be reached by majority of voting panel members -- Effect of opinion. (Declared void -- See LRC Note Below)

216C.190 When panel's delay in rendering opinion permits filing complaint in court -- Explanation of delay. (Declared void -- See LRC Note Below)

216C.200 Admission of panel's opinion into evidence in court. (Declared void -- See LRC Note Below)

216C.210 Immunity from civil liability for panel member for actions taken within course and scope of required duties. (Declared void -- See LRC Note Below)

216C.220 Compensation of panel chairperson and members. (Declared void -- See LRC Note Below)

216C.230 Submission of panel's report. (Declared void -- See LRC Note Below)

216C.240 Court's jurisdiction to compel or limit discovery, enforce or quash subpoenas, and apply sanctions. (Declared void -- See LRC Note Below)

216C.250 Party to medical review panel's proceeding may invoke court's jurisdiction and file complaint and motion with court clerk. (Declared void -- See LRC Note Below)

216C.260 Filing and service of written response to motion filed with court. (Declared void -- See LRC Note Below)

216C.270 Filing of motion and proposed complaint with court clerk temporarily stays medical review panel's proceedings. (Declared void -- See LRC Note Below)

216C.280 Court's enforcement of ruling on motion filed, subject to right of appeal. (Declared void -- See LRC Note Below)

Became law without Govenor's signature March 27, 2019.

CHAPTER 181

(HB 468)

AN ACT relating to food products and declaring an emergency.

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

➔Section 1. KRS 217.136 is amended to read as follows:

(1) A home-based processor shall be exempt from KRS 217.035 ***and*** ~~[,]~~ 217.037 ~~[, and 217.125]~~ if the following conditions are met:

(a) All finished product containers are clean, sanitary, and properly labeled pursuant to subsection (3) of this section;

(b) All home-processed foods produced under this exemption are neither adulterated nor misbranded pursuant to subsection (4) of this section; and

(c) All glass containers for jams, jellies, preserves, fruit butter, and similar products are provided with suitable rigid metal covers.

(2) A home-based processor shall not produce or process for sale acid foods, acidified food products, formulated acid food products, or low-acid canned foods.

(3) A home-based processor shall label each of its food products and include the following information on the label of each of its food products:

(a) The name and address of the home-based processing operation;

(b) The common or usual name of the food product;

(c) The ingredients of the food product, in descending order of predominance by weight;

(d) The net weight and volume of the food product by standard measure, or numerical count;

(e) The following statement in ten (10) point type: "This product is home-produced and processed"; and

(f) The date the product was processed.

(4) Food products identified in KRS 217.015(56) and not labeled in accordance with subsection (3) of this section are deemed misbranded.

(5) Food products identified in KRS 217.015(56) and produced, processed, and labeled in accordance with subsection (3) of this section are acceptable food products that may only be offered for sale directly to consumers within this state, including from the home-based processor's home, whether by pick-up or delivery, at a market, roadside stand, community event, or online. These food products may be used in preparing and serving food.

(6) Food products identified in KRS 217.015(56) and labeled in accordance with subsection (3) of this section shall not be required to be tested in determining whether or not the food product is an acid food, acidified food product, formulated acid food product, or low-acid food.

(7) The processing facilities of a home-based processor may be inspected annually by the cabinet.

(8) A home-based processor shall be subject to food sampling and inspection if it is determined that its food product is misbranded pursuant to subsection (4) of this section or adulterated, or if a consumer complaint has been received.

(9) If the cabinet has reason to believe that an imminent health hazard exists it may invoke cessation of production until it deems that the hazardous situation has been addressed to the satisfaction of the cabinet.

(10) The cabinet shall promulgate administrative regulations to further delineate which food products are subject to the definition of home-based processor, as defined in KRS 217.015(56).

(11) No later than January 1, 2020, the cabinet shall develop and implement a registration system for home-based processors.

(12) Beginning January 1, 2020, a home-based processor shall be registered with the cabinet and include the following information:

(a) The name of the home-based processor and the physical address where production or processing will occur; and

(b) A listing of the food products to be produced or processed.

➔Section 2. KRS 217.137 is amended to read as follows:

(1) The secretary shall promulgate administrative regulations to accommodate the specific circumstances of home-based microprocessors. In order to protect public health while encouraging the marketing of home-processed foods, the administrative regulations shall include, at a minimum, standards for:

(a) Installation, design, location, and maintenance of toilet rooms;

(b) Installation and maintenance of hand-washing facilities;

(c) Manual and mechanical cleaning and sanitizing processes;

(d) Installation and location of equipment;

(e) Construction and covering of floors; and

(f) Construction, materials, and maintenance of walls and ceilings.

(2) Food products that are produced or processed by a home-based microprocessor and in compliance with administrative regulations promulgated pursuant to subsection (1) of this section are acceptable food products that may only be offered for sale by farmers markets, certified roadside stands, or on the processor's farm. These food products may be used in preparing and serving food.

(3) The cabinet shall promulgate administrative regulations to further delineate which food products are subject to the definition of home-based microprocessor, as defined in KRS 217.015(57).

➔Section 3. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act. For the purposes of KRS 217.136 and 217.137, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;

(3) "Cabinet" means the Cabinet for Health and Family Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, home-based processors, or home-based microprocessors;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments

serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced practice registered nurses as authorized in KRS 314.011 and 314.042, physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858, and health care professionals who are residents of and actively practicing in a state other than Kentucky and who are licensed and have prescriptive authority under the professional licensing laws of another state, unless

the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, advanced practice registered nurse, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, food processing establishments, or home-based processors;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment;

(51) "Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for home use and not for commercial use, and shall be operated in the kitchen within the residence;

(52) "Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;

(53) "Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;

(54) "Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

(55) "Acid food" means foods that have a natural pH of 4.6 or below;

(56) "Home-based processor" means a person who in his or her home, produces or processes ***non-potentially hazardous foods, including but not limited to dried herbs, spices, nuts, candy, dried grains,*** whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies ***and who has a gross income of no more than sixty thousand dollars ($60,000) annually from the sale of the products***;

(57) "Home-based microprocessor" means a farmer who, in the farmer's home or certified or permitted kitchen, produces or processes ***foods, including but not limited to*** acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a ***gross income of no more than sixty thousand dollars ($60,000)***~~[net income of less than thirty-five thousand dollars ($35,000)]~~ annually from the sale of the product;

(58) "Certified" means any person or home-based microprocessor who:

(a) Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or

(b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;

(59) "Farmer" means a person who is a resident of Kentucky and owns or rents agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to 217.139, "farmer" also means any person who is a resident of Kentucky and has grown the primary horticultural and agronomic ingredients used in the home-based microprocessed products which they have produced; and

(60) "Farmers market temporary food service establishment" means any temporary food service establishment operated by a farmer who is a member of the market which operates within the confines of a farmers market registered with the Kentucky Department of Agriculture for the direct-to-consumer marketing of Kentucky-grown farm products from approved sources for a period of time not to exceed two (2) days per week for any consecutive six (6) months period in a calendar year.

➔Section 4. Whereas the 2019 growing season is rapidly approaching and home-based processors and microprocessors rely on the additional income from selling value-added food products, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Govenor's signature March 27, 2019.

CHAPTER 182

(HB 80)

AN ACT relating to the Kentucky Retirement Systems.

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

➔Section 1. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of seventeen (17) members, who shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Three (3) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Ten (10) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Of the ten (10) trustees appointed by the Governor:

1. One (1) trustee shall be knowledgeable about the impact of pension requirements on local governments;

2. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;

3 One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;

4. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and

5. Six (6) trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:

a. A portfolio manager acting in a fiduciary capacity;

b. A professional securities analyst or investment consultant;

c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;

d. A chartered financial analyst in good standing as determined by the CFA Institute; or

e. A university professor, teaching investment-related studies.

(2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) Except as provided in KRS 61.650(6), to contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to KRS Chapters 45, 45A, 56, and 57;

(e) To purchase fiduciary liability insurance;

(f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in

the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.

(b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.

(c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall ***include***~~[carry]~~ the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

(d) ***Except as provided by paragraph (j) of this subsection,*** the ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky ***or submitted electronically as provided by paragraph (j) of this subsection***. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot ***or submit the electronic ballot*** at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date***, or date of submission in the case of electronic ballots,*** shall be ***provided***~~[printed]~~ on the ballot.

(g) The board's contracted auditing firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.

(i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:

1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;

2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and

3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.

(j) In lieu of the ballots mailed to members and retired members as provided by this subsection, the systems may by promulgation of administrative regulation pursuant to KRS Chapter 13A conduct

trustee elections using electronic ballots, except that the systems shall mail a paper ballot upon request of any eligible voter.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining elected trustees with a person selected from the system in which the vacancy occurs, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee, Kentucky Retirement Systems shall notify members of the system in which the vacancy occurs of the vacancy and the opportunity to be considered for the vacant position. Any vacancy shall be filled within ninety (90) days of the position becoming vacant.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(c) A current or former employee of Kentucky Retirement Systems shall not be eligible to serve as a member of the board.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director.

(b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. The vice-chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. A trustee who has served four (4) consecutive years as chair or vice-chair of the board may be elected chair or vice-chair of the board after an absence of two (2) years from the positions.

(c) A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and KRS 64.640. The executive director shall be the chief administrative officer of the board.

(b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. All employees of the systems, except for the executive director, shall be subject to the state personnel system established pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined by the secretary of the Personnel Cabinet.

(c) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(d) The board shall establish a system of accounting.

(e) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification

requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).~~[The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.]~~

(10) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) (a) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

(18) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:

(a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:

1. Benefits and benefits administration;

2. Investment concepts, policies, and current composition and administration of retirement systems investments;

3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and

4. Actuarial and financial concepts pertaining to the retirement systems.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the trustee has completed the orientation program;

(b) Annual required training for board members on the administration, benefits, financing, and investing of the retirement systems. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the board member has met the annual training requirements; and

(c) The retirement systems shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.

(19) In order to improve public transparency regarding the administration of the systems, the board of trustees shall adopt a best practices model by posting the following information to the retirement systems' Web site and shall make available to the public:

(a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement systems' Web site at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;

(b) The Comprehensive Annual Financial Report with the information as follows:

1. A general overview and update on the retirement systems by the executive director;

2. A listing of the board of trustees;

3. A listing of key staff;

4. An organizational chart;

5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;

6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total net of fees return on retirement systems investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;

7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and

8. A general statistical section, including information on contributions, benefit payouts, and retirement systems' demographic data;

(c) All external audits;

(d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;

(e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;

(f) The retirement systems' summary plan description;

(g) A document containing an unofficial copy of the statutes governing the systems administered by Kentucky Retirement Systems;

(h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;

(i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The systems shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:

1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;

2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and

3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

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

(j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for

each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;

(k) A searchable database of the systems' expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the systems' Web site, the systems may provide the information through a Web site established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages;

(l) All contracts or offering documents for services, goods, or property purchased or utilized by the systems; and

(m) Information regarding the systems' financial and actuarial condition that is easily understood by the members, retired members, and the public.

(20) Notwithstanding the requirements of subsection (19) of this section, the retirement systems shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement systems' ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the systems shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.

(21) Notwithstanding any other provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to the contrary, no funds of the systems administered by Kentucky Retirement Systems, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

➔Section 2. KRS 78.625 is amended to read as follows:

(1) The agency reporting official of the county shall file the following at the retirement office on or before the tenth day of the month following the period being reported:

(a) The employee and employer contributions required under KRS 78.610, 61.565, and 61.702;

(b) The employer contributions and reimbursements for retiree health insurance premiums required under KRS 61.637; and

(c) A record of all contributions to the system on the forms prescribed by the systems.

(2) (a) If the agency reporting official fails to file at the retirement office all contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions at the actuarial rate adopted by the board compounded annually, but not less than one thousand dollars ($1,000), ***may*** ~~[shall]~~ be added to the amount due the system.

(b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

(3) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties have been paid to the system.

➔Section 3. KRS 61.675 is amended to read as follows:

(1) The employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.

(2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

(3) (a) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall file the following at the retirement office on or before the tenth day of the month following the period being reported:

1. The employer and employee contributions required under KRS 61.560, 61.565, and 61.702;

2. The employer contributions and reimbursements for retiree health insurance premiums required under KRS 61.637; and

3. A record of all contributions to the system on the forms prescribed by the board.

(b) If the agency fails to file all contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions at the actuarial rate adopted by the board compounded annually, but not less than one thousand dollars ($1,000), ***may*** ~~[shall]~~ be added to the amount due the system.

➔Section 4. KRS 61.702 is amended to read as follows:

(1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section.

2. Any person who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the hospital and medical insurance plan coverage and the benefits to which he would be entitled under this section.

3. For purposes of this section, "hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:

a. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;

b. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, in the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or

c. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041.

(b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance

eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving contributions and premiums from, and providing benefits pursuant to this section to, persons entitled to continuation coverage under 42 U.S.C. secs. 300bb-1 et seq., regardless of whether such persons are recipients of a retirement allowance.

(2) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance trust fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member having a membership date on or after September 1, 2008~~[, and effective January 1, 2019, of each member having a membership date on or after July 1, 2003, but prior to September 1, 2008]~~, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall***, at the discretion of the board,*** be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520***, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701, or partially to one fund with the remainder deposited to the other fund. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520, and the Kentucky Retirement Systems insurance trust fund established under KRS 61.701 shall not be allowed***.

2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675 and 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520***, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701***. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.

3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.

4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount ***payable*** to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520***, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701***. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520***, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701***. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within

the funds established in KRS 16.510, 61.515, and 78.520***, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701,*** through the use of separate accounts.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance trust fund;

3. Wholly or partly from funds contributed to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520;

4. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

5. Partly from subparagraphs 1. to 4. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance trust fund; accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520; or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient by an automatic electronic transfer of funds. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay the balance, not to exceed the monthly contribution; or

6. In full from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled as a direct result of an act in line of duty as defined in KRS 16.505 or as a result of a duty-related injury as defined in KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed as a direct result of an act in line of duty as defined in KRS 16.505 or as a result of a duty-related injury as defined in KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child as

defined in KRS 16.505, paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

(b) 1. For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one (1) of the other state-administered retirement plans.

2. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance trust fund accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance trust fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

3. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

4. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

5. The premium paid by the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not exceed one hundred percent (100%) of the monthly contribution rate toward hospital and medical insurance coverage approved by the board of trustees of the Kentucky Retirement Systems.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance or by another method. For purposes of this subsection only, a child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.

(b) The other provisions of this section notwithstanding, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the monthly contribution for the spouse and for each dependent child of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System. The percentage of the monthly contribution paid for the spouse and each dependent child of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that

agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

(c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520 shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

(8) (a) 1. For employees having a membership date on or after July 1, 2003, and before September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.

2. For an employee having a membership date on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.

(b) An employee who meets the minimum service requirements as provided by paragraph (a) of this subsection shall be eligible for benefits as follows:

1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars ($10) for each year of service as a participating employee.

2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars ($15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars ($10) for

each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

(c) 1. The minimum service requirement to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled as a direct result of an act in line of duty as defined in KRS 16.505, and the member or his spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.

2. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled by a duty-related injury as defined in KRS 61.621, and the member shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a nonhazardous position.

3. Notwithstanding the provisions of this section, the minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who dies as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, and the premium for the member's spouse and for each dependent child as defined in KRS 16.505 shall be paid in full by the systems so long as they individually remain eligible for a monthly retirement benefit.

(d) Except as provided by paragraph (c)3. of this subsection, the monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.

(e) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.

(f) An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.

➔Section 5. Notwithstanding the provisions of Section 1 of this Act or 2013 Ky. Acts ch. 120 to the contrary, the successor of the County Employees Retirement System trustee whose election as trustee was completed in accordance with 2013 Ky. Acts ch. 120, sec. 82, shall be elected during the period of January 1, 2021, through March 31, 2021, in accordance with procedures set forth in Section 1 of this Act and the election policy adopted by the board of trustees, but shall not take office until November 1, 2021, and shall serve a term of office ending March 31, 2025.

Signed by Governor March 26, 2019.

CHAPTER 183

(SB 70)

AN ACT relating to strangulation.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of strangulation in the first degree when the person, without consent, intentionally impedes the normal breathing or circulation of the blood of another person by:

(a) Applying pressure on the throat or neck of the other person; or

(b) Blocking the nose or mouth of the other person.

(2) Strangulation in the first degree is a Class C felony.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of strangulation in the second degree when the person, without consent, wantonly impedes the normal breathing or circulation of the blood of another person by:

(a) Applying pressure on the throat or neck of the other person; or

(b) Blocking the nose or mouth of the other person.

(2) Strangulation in the second degree is a Class D felony.

➔Section 3. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, stalking, sexual abuse, ***strangulation,*** assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, ***strangulation,*** or assault between family members or members of an unmarried couple;

(2) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

(3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;

(4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;

(5) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;

(6) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order;~~[and]~~

(7) ***"Strangulation" refers to conduct prohibited by Sections 1 and 2 of this Act; and***

(8) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

➔Section 4. KRS 456.010 is amended to read as follows:

As used in this chapter:

(1) "Dating relationship" means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:

(a) Declarations of romantic interest;

(b) The relationship was characterized by the expectation of affection;

(c) Attendance at social outings together as a couple;

(d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;

(e) The length and recency of the relationship; and

(f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;

(2) "Dating violence and abuse" means physical injury, serious physical injury, stalking, sexual assault, ***strangulation,*** or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, ***strangulation,*** or assault occurring between persons who are or have been in a dating relationship;

(3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was not issued on the basis of domestic violence and abuse;

(4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;

(5) "Order of protection" means any interpersonal protective order, including those issued on a temporary basis, and includes a foreign protective order;

(6) "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020;

(7) "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or 508.150;

(8) "Strangulation" refers to conduct prohibited by Sections 1 and 2 of this Act; and

(9) ~~[(8)]~~ "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

➔Section 5. KRS 456.020 is amended to read as follows:

(1) This chapter shall be interpreted to:

(a) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;

(b) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;

(c) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;

(d) Provide for the collection of data concerning incidents of dating violence and abuse, sexual assault, ***strangulation,*** and stalking in order to develop a comprehensive analysis of the numbers and causes of such incidents; and

(e) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.

(2) Nothing in this chapter is intended to trigger the application of the provisions of 18 U.S.C sec. 922(g) as to an interpersonal protective order issued on the basis of the existence of a current or previous dating relationship.

Signed by Governor March 26, 2019.

CHAPTER 184

(SB 67)

AN ACT relating to sexual crimes against animals.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Animal" means any nonhuman creature; and

(b) "Sexual contact" means any act committed between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or financial gain involving:

1. Contact between the sex organs or anus of one (1) and the mouth, sex organs, or anus of another;

2. The insertion of any part of the animal's body into the vaginal or anal opening of the person; or

3. The insertion of any part of the body of a person or any object into the vaginal or anal opening of an animal without a bona fide veterinary or animal husbandry purpose.

(2) A person is guilty of sexual crimes against an animal if he or she:

(a) Engages in sexual contact with an animal;

(b) Advertises, solicits, offers, or accepts the offer of an animal, or possesses, purchases, or otherwise obtains an animal, with the intent that the animal be subject to sexual contact; or

(c) Causes, aids, or abets another person to engage in sexual contact with an animal.

(3) Sexual crimes against an animal is a Class D felony.

(4) Nothing in this section shall apply to:

(a) Accepted veterinary practices;

(b) Artificial insemination of an animal for reproductive purposes;

(c) Accepted animal husbandry practices, including grooming, raising, breeding, or assisting with the birthing process of animals or any other procedure that provides care for an animal; or

(d) Generally accepted practices related to the judging of breed conformation.

(5) In addition to the penalty imposed in subsection (3) of this section, the court shall order a person convicted of violating this section to:

(a) Relinquish custody of all animals under the person's control. If the person convicted of violating this section is not the owner of the animal that was the subject of the violation, then the animal shall be returned to the owner of the animal. An animal returned to an owner under this section shall not be spayed or neutered prior to being returned;

(b) Not harbor, own, possess, or exercise control over any animal, reside in any household where animals are present, or work or volunteer in a place where the person has unsupervised access to animals for a minimum of five (5) years after completion of the imposed sentence;

(c) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the person's expense; and

(d) Reimburse the agency caring for the animal for reasonable costs incurred for the care and treatment of the animal from the date of impoundment until the disposition of the criminal proceeding.

➔Section 2. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to 258.087, unless the context requires otherwise:

(1) "Dog" means any canine three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine;

(2) "Owner" means any person owning, keeping, or harboring a dog, cat, or ferret in Kentucky;

(3) "Veterinarian" means a licensed practitioner of veterinary medicine;

(4) "Qualified person" means a person granted a permit by the secretary for health and family services to vaccinate his own dog against rabies;

(5) "Vaccination" means the administration by a veterinarian or other qualified person of rabies vaccine approved by and administered in accordance with administrative regulations promulgated by the secretary for health and family services;

(6) "Cat" means any feline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine;

(7) "Animal control officer" means an individual who is employed or appointed by, or has contracted with:

(a) A city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, ***sexual crimes against,*** or torture of animals, and local animal control ordinances; or

(b) An entity that has contracted with a city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes

relating to cruelty, mistreatment, ***sexual crimes against,*** or torture of animals, and local animal control ordinances;

(8) "Ferret" means any musteline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine; and

(9) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal.

➔Section 3. KRS 258.095 is amended to read as follows:

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

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Board" means the Animal Control Advisory Board created by KRS 258.117;

(4) "Dog" means any domestic canine, six (6) months of age or older;

(5) "Owner," when applied to the proprietorship of a dog, includes:

(a) Every person having a right of property in the dog; and

(b) Every person who:

1. Keeps or harbors the dog;

2. Has the dog in his or her care;

3. Permits the dog to remain on or about premises owned and occupied by him or her; or

4. Permits the dog to remain on or about premises leased and occupied by him or her;

(6) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(7) "Vicious dog" means any individual dog declared by a court to be a vicious dog;

(8) "Animal control officer" means an individual who is employed or appointed by, or has contracted with:

(a) A city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, ***sexual crimes against,*** or torture of animals, and local animal control ordinances; or

(b) An entity that has contracted with a city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, ***sexual crimes against,*** or torture of animals, and local animal control ordinances;

(9) "Designated license facility" means any person, facility, or business designated by resolution of the governing body of the county to collect license fees under KRS 258.135;

(10) "Cat" means any domestic feline three (3) months of age or older;

(11) "Ferret" means any domestic musteline three (3) months of age or older;

(12) "Euthanasia" means the act of putting an animal to death in a humane manner by methods specified as acceptable for that species by the most recent report of the American Veterinary Medical Association Panel on Euthanasia, subject to the requirements provided by KRS 258.505;

(13) "Animal shelter" means any facility used to house or contain animals, operated or maintained by a governmental body, incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization;

(14) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal;

(15) "Livestock" means poultry; ratites; and cervine, bovine, ovine, porcine, caprine, or equine animals that are privately owned and raised in a confined area for breeding stock, food, fiber, or other products; and

(16) "Poultry" means chickens, ducks, turkeys, or other domestic fowl.

➔Section 4. KRS 436.605 is amended to read as follows:

(1) Animal control officers and officers and agents of humane societies who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services shall have the powers of peace officers, except for the power of arrest, for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, ***sexual crimes against,*** or torture of animals, provided they possess the qualifications required under KRS 61.300.

(2) When any peace officer, animal control officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty, mistreatment, ***sexual crimes against,*** or torture of animals is being committed in a building, barn, or other enclosure, the judge shall issue a search warrant directed to the peace officer, animal control officer, or officer or agent of the society or association for the prevention of cruelty to animals to search the premises. If a peace officer finds that an act of cruelty, mistreatment, ***sexual crimes against,*** or torture of animals is being perpetrated, the offender or offenders shall be immediately arrested by the peace officer and brought before the court for trial. If an animal control officer or an officer or agent of a society or association for the prevention of cruelty to animals finds that an act of cruelty, mistreatment, ***sexual crimes against,*** or torture of animals is being perpetrated, the officer or agent shall summon a peace officer to arrest the offender or offenders and bring them before the court for trial.

Signed by Governor March 26, 2019.

CHAPTER 185

(HB 64)

AN ACT relating to pharmacists.

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

➔Section 1. KRS 217.215 is amended to read as follows:

(1) The~~[State]~~ Board of Pharmacy, its agents and inspectors shall have the same powers of inspection and enforcement as the cabinet under KRS 217.005 to 217.215, insofar as it relates to drugs in licensed pharmacies.

(2) The Board of Pharmacy may establish regulations relating to the storage and retrieval of prescription records in licensed pharmacies, including regulations regarding computerized recordkeeping systems.

(3) ***(a)*** No prescription for any drug may be refilled by a pharmacist unless authorized by the prescribing practitioner, except that ***in emergency situations in which such authorization may not be readily or easily obtained from the practitioner***~~[the board of pharmacy may promulgate rules and regulations to permit]~~ a pharmacist ***may***~~[to]~~:

1.~~[(a)]~~ Dispense up to a seventy-two (72) hour supply of maintenance medication~~[in emergency situations in which such authorization may not be readily or easily obtained from the practitioner]~~; ~~[and]~~

2. Dispense greater than a seventy-two (72) hour supply of maintenance medication if:

a. The standard unit of dispensing for the drug exceeds a seventy-two (72) hour supply;

b. The pharmacist dispenses a supply of the drug that is equal to the standard unit of dispensing for the drug; and

c. The drug is used for insulin therapy or the treatment of chronic respiratory diseases; and

3.~~[(b)]~~ Dispense up to a thirty (30) day supply of maintenance medication in emergency situations as authorized by KRS 315.500.

(b)~~[(4)]~~ ~~[Such]~~Emergency refills ***dispensed under this subsection*** shall not be authorized for any controlled substance or for any drug which is not essential to maintenance of life or continuation of therapy in chronic disease conditions.

(c) The Board of Pharmacy shall promulgate administrative regulations to carry out the provisions of this subsection.

Signed by Governor March 26, 2019.

CHAPTER 186

(HB 61)

AN ACT relating to Kentucky educational excellence scholarships.

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

➔Section 1. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or the college admissions examination administered statewide under KRS 158.6453(5)(b)5. if the exam is the ACT, or an equivalent score, as determined by the authority, on the SAT administered by the College Board, Inc.;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means the fall and spring consecutive academic terms within one (1) academic year;

(6) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(7) "Eligible high school student" means any person who:

(a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

(b) Was enrolled after July 1, 1998:

1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the KEES curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;

2. In a Kentucky high school for the fall academic term of the senior year and who:

a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year; or

3. In the Gatton Academy of Mathematics and Science in Kentucky or the Craft Academy for Excellence in Science and Mathematics while meeting the Kentucky educational excellence scholarship curriculum requirements;

(c) Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under paragraph (b) 2. of this subsection; and

(d) Is not a convicted felon;

(8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a KEES award;

(b) Has the required postsecondary GPA and credit hours required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(9) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(10) "Grade point average" or "GPA" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(11) "High school" means any Kentucky public high school, the Gatton Academy of Mathematics and Science in Kentucky, the Craft Academy for Excellence in Science and Mathematics, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(12) "KEES" or "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(13) "KEES award" means:

(a) For an eligible high school student, the sum of the KEES base amount for each academic year of high school plus any KEES supplemental amount, as adjusted pursuant to KRS 164.7881; and

(b) For a student eligible under KRS 164.7879(3)(e), the KEES supplemental amount as adjusted pursuant to KRS 164.7881;

(14) "KEES award maximum" means the sum of the KEES base amount earned in each academic year of high school plus any KEES supplemental amount earned;

(15) "KEES base amount" or "base amount" means the amount earned by an eligible high school student based on the student's GPA pursuant to KRS 164.7879;

(16) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (7)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;

(17) "KEES supplemental amount" means the amount earned by an eligible student based on the student's ACT score pursuant to KRS 164.7879;

(18) "KEES trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(19) "On track to graduate" means the number of cumulative credit hours earned as compared to the number of hours determined by the postsecondary education institution as necessary to complete a bachelor's degree by the end of eight (8) academic terms or ten (10) academic terms if a student is enrolled in an undergraduate program that requires five (5) years of study;

(20) "Participating institution" means an "institution" as defined in KRS 164.001 that ***is eligible to participate***~~[actively participates]~~ in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated;

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates, recipients of a High

School Equivalency Diploma, or students transferring from another accredited degree granting institution; or

3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs; and

(21) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours, or the equivalent for an institution that does not use credit hours.

➔Section 2. KRS 164.7884 is amended to read as follows:

(1) As used in this section:

(a) "Academic year" means July 1 through June 30 of each year;

(b) "Apprentice" has the same meaning as in KRS 343.010;

(c) "Eligible student" means an eligible high school student who has graduated from high school or a student eligible under KRS 164.7879(3)(e);

(d) ***"Qualified workforce training program" means a program that is in one (1) of Kentucky's top five (5) high-demand work sectors as determined by the Kentucky Workforce Investment Board;***

(e) "Registered apprenticeship program" means an apprenticeship program that:

1. Is established in accordance with the requirements of KRS Chapter 343;

2. Requires a minimum of two thousand (2,000) hours of on-the-job work experience;

3. Requires a minimum of one hundred forty-four (144) hours of related instruction for each year of the apprenticeship; and

4. Is approved by the Kentucky Labor Cabinet;

(f)~~[(e)]~~ "Related instruction" has the same meaning as in KRS 343.010; and

(g)~~[(f)]~~ "Sponsor" has the same meaning as in KRS 343.010.

(2) Notwithstanding KRS 164.7881, an eligible student who earned a KEES award~~[and is an apprentice in a registered apprenticeship program]~~ shall be eligible for a Kentucky educational excellence scholarship ***if the student meets the requirements of this section and is:***

(a) An apprentice in a registered apprenticeship program; or

(b) Enrolled in a qualified workforce training program that has a current articulation agreement for postsecondary credit hours with a participating institution.

(3) (a) Beginning with the 2018-2019 academic year, an eligible student enrolled in a registered apprenticeship program ***or, for the academic year beginning July 1, 2020, an eligible student enrolled in a qualified workforce training program*** may receive reimbursement of tuition, books, required tools, and other approved expenses required for participation in the~~[registered apprenticeship]~~ program, upon certification by the sponsor and approval by the authority.

(b) The reimbursement amount an eligible student may receive in an academic year shall not exceed the student's KEES award maximum.

(c) The total reimbursement amount an eligible student may receive under this section shall not exceed the student's KEES award maximum multiplied by four (4).

(4) Eligibility for a KEES scholarship under this section shall terminate upon the earlier of:

(a) The expiration of five (5) years following the eligible student's graduation from high school or receiving a ***High School Equivalency Diploma***~~[GED]~~, except as provided in KRS 164.7881(5); or

(b) The eligible student's successful completion of the registered apprenticeship program ***or qualified workforce training program***.

(5) The authority shall promulgate administrative regulations establishing the procedures for making awards under this section in consultation with the Kentucky Labor Cabinet, the Kentucky Education and Workforce Development Cabinet, and the Kentucky Economic Development Cabinet.

Signed by Governor March 26, 2019.

CHAPTER 187

(SB 60)

AN ACT relating to elections.

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

➔Section 1. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the ***first Friday following the first Monday***~~[last Tuesday]~~ in January before the day fixed by KRS Chapter 118 for holding a primary~~[election]~~ for the office sought. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) An independent candidate for nomination to city office shall not participate in a primary, but shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Tuesday after the first Monday in June before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed; and

(c) A candidate for city office who is defeated in a partisan primary~~[election]~~ shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he or she was an unsuccessful candidate in the primary, his or her name may be placed on the voting machines for the regular election as a candidate of that party if he or she has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the ***first Friday following the first Monday***~~[last Tuesday]~~ in January before the day fixed by KRS Chapter 118 for holding a primary for nominations for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the home rule class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary~~[election]~~ for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Tuesday after the first Monday in June before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot;

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

3. If a city does not conduct a primary pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121;

4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected;

5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121;

6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting; and

7. At the regular election, the voters shall be instructed to vote for one (1) candidate, except when there is more than one (1) candidate for which voters may vote, the instruction "vote for up to .... candidates" shall be used on the ballot; and

(c) A candidate for city office who is defeated in a nonpartisan primary~~[election]~~ shall be ineligible as a candidate for the same office in the regular election.

➔Section 2. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the ***first Friday following the first Monday***~~[last Tuesday]~~ in January preceding the day fixed by law for holding the primary.

(2) Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the ***first Friday following the first Monday***~~[last Tuesday]~~ in January preceding the day fixed by law for holding the primary. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers may be filed.

(3)~~[(2)]~~ The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(4)~~[(3)]~~ A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.

➔Section 3. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the ***first Friday following the first Monday***~~[last Tuesday]~~ in January preceding the day fixed by law for holding the primary~~[election]~~ for the office. The petition shall be sworn to before an officer authorized to administer an oath by the candidate and by not less than two (2) registered voters from the district or circuit from which he or she seeks nomination. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. The petition shall include a declaration sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division~~[thereof]~~ if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the ***filing deadline for the primary as established in this section and in Sections 1 and 2 of this Act***~~[last Tuesday in January preceding the primary election]~~.

(5) Not later than the date set forth in KRS 118.215(1)(a) preceding the primary~~[election]~~, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division~~[thereof]~~ if divisions exist, as specified in the petitions for nomination filed with him ***or her***; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the Secretary of State.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division~~[thereof]~~ if divisions exist, and the candidates~~[therefor]~~ shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division~~[thereof]~~ if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in the Secretary's office certificates of nomination, and send copies to the candidates.

➔Section 4. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him or

her, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

(a) Not later than the second Monday after the filing deadline for the primary ***as established in Sections 1, 2, and 3 of this Act***;

(b) Not later than the second Monday following the ***filing deadline*** ~~[second Tuesday in August]~~ for the regular election, except as provided in paragraph (c) of this subsection; and

(c) Not later than the Monday after the Friday following the first Tuesday in September preceding a regular election, for those years in which there is an election for President and Vice President of the United States.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he or she shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the regular election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.

(6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

➔Section 5. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates or slates of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. The Secretary of State shall arrange the surnames of all candidates or slates of candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in

numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the ***filing deadline for***~~[last Tuesday in January preceding]~~ the primary ***as established in Sections 1, 2, and 3 of this Act*** or the Thursday following the first Tuesday after the first Monday in June preceding the regular election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, on the Thursday following the ***filing deadline for***~~[last Tuesday in January before]~~ the primary ***as established in Sections 1, 2, and 3 of this Act*** or the Thursday following the first Tuesday after the first Monday in June preceding the regular election.

(4) For all offices for which the deadline for filing nomination papers and petitions is governed by KRS 83A.165(4)(c) or 118.375(2), the order in which the names of candidates for each office are to be printed shall be determined by lot at a public drawing in the office at the place of filing at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.

(5) If the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

➔Section 6. KRS 118.581 is amended to read as follows:

The State Board of Elections shall convene in Frankfort on the ***third***~~[second]~~ Tuesday in ***December***~~[January]~~ preceding a presidential preference primary. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those candidates of the political parties for the office of President of the United States who have qualified for matching federal campaign funds. Immediately upon completion of this requirement, the board shall transmit a list of all the nominees selected to the Secretary of State and shall also release the list to the news media.

➔Section 7. KRS 118.591 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of President of the United States, or any group organized in this state on behalf of, and with the consent of, the person, may file with the Secretary of State certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in the Commonwealth and are affiliated, by registration, with the same political party as the candidate for whom petitions are filed.

(2) The petitions shall be filed by the petitioners with the Secretary of State no later than the ***first Friday following the first Monday***~~[last Tuesday]~~ in January preceding a presidential preference primary.

(3) The petitions shall state:

(a) The name of the candidate for nomination and the party of which ***the candidate***~~[he]~~ is a member; and

(b) The name and address of the ***chair***~~[chairman]~~ of the group circulating such petition.

(4) The Secretary of State shall determine the sufficiency of petitions filed with him ***or her*** and shall immediately communicate his ***or her*** determination to the ***chair***~~[chairman]~~ of the group which has filed the petitions.

(5) In lieu of the petition requirements of subsections (1) to (4) of this section, a candidate may qualify to appear on the presidential preference primary ballot of ***the candidate's***~~[his]~~ political party by filing with the Secretary of State, no later than the ***first Friday following the first Monday***~~[last Tuesday]~~ in January preceding a presidential preference primary, a notice of candidacy signed by the candidate and either of the following:

(a) A certification by the Federal Election Commission that, by the filing deadline, the candidate has qualified for matching federal campaign funds; or

(b) Evidence that, by the filing deadline, the candidate's name is qualified to appear on the presidential preference primary ballot of ***the candidate's***~~[his]~~ political party in at least twenty (20) other states.

(6) The Secretary of State shall determine the sufficiency of the documentation provided pursuant to subsection (5) of this section and shall immediately communicate his ***or her*** determination to the candidate or ***the candidates's***~~[his]~~ agent.

➔Section 8. KRS 118.601 is amended to read as follows:

(1) The Secretary of State shall contact each person who has been nominated by petition, or who has been nominated pursuant to KRS 118.591(5) and (6), and notify him ***or her*** in writing by certified mail, with return receipt requested, that his ***or her*** name will appear as a candidate on the Kentucky presidential primary ballot of his ***or her*** party.

(2) The order in which the names of candidates for a presidential preference primary are to be printed on the ballot shall be determined by lot at a public drawing in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the ***filing deadline for***~~[last Tuesday in January preceding]~~ the presidential preference primary ***as established in Section 7 of this Act***.

(3) Not later than the date set forth in KRS 118.215(1)(a) preceding the presidential preference primary, and after the order of the names has been determined as provided by subsection (2) of this section, the Secretary of State shall certify to each county clerk the name, place of residence, and party of each candidate, as specified in the notice of candidacy forms or petitions filed with ***the Secretary of State***~~[him]~~ and shall designate the device with which the candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes.

➔Section 9. KRS 83A.165 is amended to read as follows:

(1) A candidate running to fill the unexpired term of any city office shall file his ***or her*** nomination papers in accordance with the provisions of KRS 83A.045, 118.365, 118.375, and 83A.047.

(2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.

(3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:

(a) Vacancies in candidacy shall be governed by KRS 118.105;

(b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and

(c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.

(4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:

(a) If the vacancy occurs not less than one hundred ***sixty (160)***~~[thirty four (134)]~~ days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170;

(b) If the vacancy occurs on or after the one hundred ***sixtieth***~~[thirty fourth]~~ day before a May primary or at any time before the time prescribed in KRS 118.365 for filing petitions of nomination, the election to fill the unexpired term shall be held without a primary in the manner prescribed in Section 152 of the Kentucky Constitution. Petitions of nomination for candidates to fill the vacancy shall be filed at the time and place prescribed in KRS 118.365;

(c) If the vacancy occurs after the time prescribed in KRS 118.365 for filing petitions of nomination, but not less than three (3) months before the regular election, petitions of nomination for candidates to fill the vacancy shall be filed not later than the second Tuesday in August preceding the regular election for the office sought; and

(d) Vacancies in candidacy in any city that has eliminated the nonpartisan primary election pursuant to KRS 83A.045 shall be governed by the provisions of KRS 83A.045(2)(b)6.

➔Section 10. KRS 118.115 is amended to read as follows:

(1) Except as provided in subsection (2)(b) of KRS 83A.045 governing vacancies in candidacy, candidates for unexpired terms to be filled at a regular election shall be nominated at the primary next preceding the regular election, if the vacancy occurred not less than one hundred ***sixty (160)***~~[thirty four (134)]~~ days before the

primary. If the vacancy occurred less than one hundred ***sixty (160)***~~[thirty-four (134)]~~ days before the primary, the nomination shall be made in a manner determined by the governing authority of the political party concerned. In the preparation of ballots, candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.

(2) A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.

➔Section 11. KRS 118.375 is amended to read as follows:

(1) If a vacancy occurs in any elective office less than one hundred ***sixty (160)***~~[thirty-four (134)]~~ days before the primary or at any time before the time prescribed in KRS 118.365 for filing petitions of nomination, independent, or political organization, or political group candidates may file their petitions at the time and place provided in KRS 118.365, subject to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).

(2) If a vacancy occurs in any elective office after the time prescribed in KRS 118.365 for filing petitions of nomination, but not less than three (3) months before the regular election, independent, or political organization, or political group candidates may file their petitions not later than the second Tuesday in August preceding the regular election for the office sought, subject to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).

(3) A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.

➔Section 12. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not later than the second ***Friday***~~[Tuesday]~~ in ***December***~~[January]~~ preceding the primary. If the vacancy occurs on or after that date, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the election for the unexpired term will be held and not later than the first Tuesday after the first Monday in June preceding the day fixed by law for holding the regular election for the unexpired term, if the vacancy occurs prior to the first Tuesday following the first Monday in June. If the vacancy occurs after the first Tuesday following the first Monday in June, each candidate shall file a petition for nomination with the Secretary of State not later than the second Tuesday in August preceding the day fixed by law for holding the regular election for the unexpired term. The petition shall be sworn to by the candidate and by not less than two (2) registered voters from the district or circuit from which he or she seeks nomination, before an officer authorized to administer an oath. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for nomination shall be in the form prescribed by the State Board of Elections. The petition shall include a declaration sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the first Tuesday after the first Monday in June preceding the regular election for those petitions for nomination required to be filed no later than the first Tuesday following the first Monday in June. For those petitions for nomination required to be filed no later than the second Tuesday in August, the order of names on the ballot for each district and circuit, and numbered division if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.

(7) Not later than the date set forth in KRS 118.215 and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division if divisions exist, as specified in the petitions for nomination filed with the Secretary of State; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in a manner so that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division if divisions exist, shall be elected.

(12) A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.

➔Section 13. KRS 117.055 is amended to read as follows:

Subject to KRS 117.0551 to 117.0555:

(1) Each county shall be divided into election precincts by the county board of elections. Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. The county board of elections shall establish precincts so that no boundary of a precinct crosses the boundary of:

(a) The Commonwealth;

(b) A county or urban-county;

(c) A congressional district;

(d) A state senatorial district;

(e) A state representative district;

(f) A justice of the peace or county commissioner's district established under KRS Chapter 67; or

(g) An aldermanic ward established under KRS 83.440.

(2) The county board of elections shall have the authority to draw precinct lines so as to enable more than one (1) precinct to vote at one (1) location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception, they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election, and the State Board

of Elections may require a written report at least sixty (60) days prior to the candidate filing deadline set forth in KRS 118.165(1) ***and (2)*** on each election precinct exceeding seven hundred (700) votes cast in the last regular election. Consideration to the division of said election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so. However, the State Board of Elections may, in its discretion, withhold from a county the expenses of an election under KRS 117.345 for any precinct containing more than one thousand five hundred (1,500) registered voters, excluding those precincts utilizing optical scan voting machines and those periods of time in which the precinct boundaries have been frozen under KRS 117.056.

(3) No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any primary election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or Secretary of State. No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or Secretary of State.

(4) The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county.

(5) A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the State Board of Elections, and any changes in boundaries thereafter made shall also be filed with the State Board of Elections. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.

(6) If the county board of elections fails to perform any of the duties required by KRS 117.055 to 117.0555 and KRS 117.0557:

(a) The State Board of Elections or any citizen and voter of the county may apply to the Circuit Court of the county for a summary mandatory order requiring the board to perform the duty. Appeals may be taken to the Court of Appeals by either party; and

(b) The State Board of Elections shall not submit claims for payments to the county under KRS 117.343 and 117.345 until the State Board of Elections determines in writing that the duty has been performed.

(7) The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial, and municipal boundaries.

➔Section 14. KRS 118.367 is amended to read as follows:

(1) An independent, or political organization, or political group candidate required to file nomination papers pursuant to KRS 118.365(5) shall be required to file a statement-of-candidacy form with the same office at which nomination papers are filed. Candidates for federal office and candidates for mayor or legislative body in cities of the home rule class participating in partisan elections shall not be required to file a statement-of-candidacy form. The statement-of-candidacy form shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than ***the first Friday following the first Monday in January***~~[April 1]~~ preceding the day fixed by law for holding of regular elections for the offices sought.~~[If the office in which the statement-of-candidacy form is to be filed is closed on April 1, the form may be filed on the next business day.]~~ The statement-of-candidacy form shall be filed no later than 4 p.m. local time when filed on the last day on which papers are permitted to be filed. No person shall file a statement-of-candidacy form for more than one (1) public office during an election cycle.

(2) The statement-of-candidacy form shall be prescribed by the State Board of Elections. The statement-of-candidacy form shall be signed by the candidate upon filing. No charge shall be assessed for the filing of a statement-of-candidacy form. The Secretary of State and county clerks shall examine the statement-of-candidacy form of each candidate who files the form to determine if there is an error. If an error has occurred, the candidate shall be notified by certified mail within twenty-four (24) hours.

➔Section 15. If any section, any subsection, or any provision of this Act is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions of this Act.

➔Section 16. This Act takes effect November 6, 2019.

Signed by Governor March 26, 2019.

CHAPTER 188

(SB 57)

AN ACT relating to expungement and making an appropriation therefor.

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

➔Section 1. KRS 431.073 is amended to read as follows:

(1) Any person who has been***:***

(a) Convicted of a Class D felony violation of KRS 17.175, 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140, 218A.1415, 218A.1416, 218A.1417, 218A.1418, 218A.1423, 218A.1439, 218A.282, 218A.284, 218A.286, 218A.320, 218A.322, 218A.324, ***218A.500,*** 244.165, 286.11-057, 304.47-025, 324.990, 365.241, 434.155, 434.675, 434.850, 434.872, 511.040, 512.020, 514.030, 514.040, 514.050, 514.060, 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 514.120, 514.140, 514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 518.040, 522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050, 530.010, or 530.050***;*** ~~[, or]~~

(b) ***Convicted of*** a series of Class D felony violations of one (1) or more statutes enumerated in ***subsection (1)(a) of*** this section arising from a single incident***;*** ~~[, or who has been]~~

(c) Granted a full pardon~~[,]~~***; or***

(d) ***Convicted of a Class D felony, or an offense prior to January 1, 1975 which was punishable by not more than five (5) years' incarceration, which was not a violation of KRS 189A.010, 508.032, or 519.055, abuse of public office, a sex offense, or an offense committed against a child, and did not result in serious bodily injury or death; or of a series of felony offenses eligible under this paragraph;***

may file with the court in which he or she was convicted an application to have the judgment vacated. The application shall be filed as a motion in the original criminal case. The person shall be informed of the right at the time of adjudication.

(2) ***(a)*** A verified application to have the judgment vacated under this section shall be filed no sooner than five (5) years after the completion of the person's sentence, or five (5) years after the successful completion of the person's probation or parole, whichever occurs later.

(b) Upon the payment of the filing fee and the filing of the application, the Circuit Court clerk shall serve a notice of filing upon the office of the Commonwealth's attorney or county attorney that prosecuted the case and the county attorney of the county where the judgment was entered. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall file a response within sixty (60) days after being served with the notice of filing. That time period may be extended for good cause, but the hearing on the application to vacate the judgment shall occur no later than one hundred twenty (120) days following the filing of the application. The inability to determine the location of the crime victim shall constitute good cause for an extension of time. No hearing upon the merits of the application shall be scheduled until the Commonwealth's response has been filed, or if no response is received, no later than one hundred twenty (120) days after the filing of the application.

(c) ***In any case in which the Commonwealth objects that the application is grossly incomplete, the court shall order the person or agency originating the application to supplement the application.***

(3) Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the

Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any vehicle operator's license issued to that person.

(4) ***(a) In an application pursuant to subsection (1)(d) of this section, upon the filing of the Commonwealth's response objecting to the vacating of a judgment and expungement of a record, the court shall schedule a hearing within one hundred twenty (120) days of the Commonwealth's response. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. At the hearing at which the applicant or his or her attorney must be present, the applicant must prove by clear and convincing evidence that:***

1. Vacating the judgment and expunging the record is consistent with the welfare and safety of the public;

2. The action is supported by his or her behavior since the conviction or convictions, as evidenced that he or she has been active in rehabilitative activities in prison and is living a law-abiding life since release;

3. The vacation and expungement is warranted by the interests of justice; and

4. Any other matter deemed appropriate or necessary by the court to make a determination regarding the petition for expungement is met.

(b) At the hearing, the applicant may testify as to the specific adverse consequences he or she may be subject to if the application is denied. The court may hear testimony of witnesses and any other matter the court deems proper and relevant to its determination regarding the application. The Commonwealth may present proof of any extraordinary circumstances that exist to deny the application. A victim of any offense listed in the application shall have an opportunity to be heard at any hearing held under this section.

(c) If the court determines that circumstances warrant vacation and expungement and that the harm otherwise resulting to the applicant clearly outweighs the public interest in the criminal history record information being publicly available, then the original conviction or convictions shall be vacated and the records shall be expunged. The order of expungement shall not preclude a prosecutor's office from retaining a nonpublic record for law enforcement purposes only.

(5) The court may order the judgment vacated, and if the judgment is vacated the court shall dismiss with prejudice any charges which are eligible for expungement under subsection (1) of this section or KRS 431.076 or 431.078, and***, upon full payment of the fee in subsection (11) of this section,*** order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if the court finds that:

(a) The person had not***, after the effective date of this Act,***~~[previously]~~ had a felony conviction vacated and the record expunged pursuant to this section;

(b) The person had not in the five (5) years prior to the filing of the application to have the judgment vacated been convicted of a felony or a misdemeanor;~~[and]~~

(c) No proceeding concerning a felony or misdemeanor is pending or being instituted against the person***; and***

(d) For an application pursuant to subsection (1)(d) of this section, the person has been rehabilitated and poses no significant threat of recidivism.

(6)~~[(5)]~~ If the court has received a response from the office of the Commonwealth's attorney or county attorney that prosecuted the case stating no objection to the application to have the judgment vacated, or if one hundred twenty (120) days have elapsed since the filing of the application and no response has been received ***from the victim or the office of the Commonwealth's attorney or county attorney that prosecuted the case***, the court may, without a hearing, vacate the judgment in the manner established in subsection (4) of this section.

(7)~~[(6)]~~ Upon entry of an order vacating and expunging a conviction, the original conviction shall be vacated and***, upon full payment of the fee in subsection (11) of this section,*** the record shall be expunged. The court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks. The court and other agencies shall reply to any

inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. If the person is not prohibited from voting for any other reason, the person's ability to vote shall be restored and the person may register to vote.

(8) ~~[(7)]~~ An order vacating a conviction under this section shall not extend or revive an expired statute of limitations, shall not constitute a finding of legal error regarding the proceedings leading to or resulting in the conviction, shall not nullify any findings of fact or conclusions of law made by the trial court or any appellate court regarding the conviction, and shall not constitute a finding of innocence regarding the conviction.

(9) ~~[(8)]~~ The Administrative Office of the Courts shall establish a form application to be used in filing an application to have judgment vacated and records expunged.

(10) ~~[(9)]~~ The filing fee for an application to have judgment vacated and records expunged shall be ~~[five hundred dollars ($500). The first]~~fifty dollars ($50)***, which*** ~~[of each fee collected pursuant to this subsection]~~ shall be deposited into a trust and agency account for deputy clerks and shall not be refundable.

(11) (a) Upon the issuance of an order vacating and expunging a conviction pursuant to this section, the applicant shall be charged an expungement fee of two hundred fifty dollars ($250), which may be payable by an installment plan in accordance with KRS 534.020.

(b) When the order is issued, the court shall set a date, no sooner than eighteen (18) months after the date of the order, by which the defendant must comply with the installment payment plan. The applicant shall be given notice of the total amount due, the payment frequency, and the date by which all payments must be made. The notice shall state that the expungement cannot be completed until full payment is received, and that if the applicant has not completed the installment payment plan by the scheduled date, he or she shall appear on that date to show good cause as to why he or she is unable to satisfy the obligations. Notwithstanding provisions of KRS 534.020 to the contrary, no applicant shall be ordered to jail for failure to complete an installment plan ordered pursuant to this section.

(c) The revenues and interest from the expungement fee shall be deposited in the expungement fund created in Section 4 of this Act.

(12) ~~[(10)]~~ This section shall be retroactive.

➔Section 2. KRS 431.076 is amended to read as follows:

(1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed ~~[with prejudice]~~and not in exchange for a guilty plea to another offense, or against whom felony charges originally filed in the District Court have not resulted in an indictment by the grand jury, may petition the District or Circuit Court in which the charges were filed to expunge all records.

(2) The expungement petition shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal ***with prejudice*** by the court***,*** ~~[or]~~ twelve (12) months following the date of the District Court decision to hold the matter to the grand jury***, or five (5) years following the date of the order of dismissal without prejudice***. The petition shall be served upon the office of the Commonwealth's attorney or county attorney that prosecuted the case.

(3) Following the filing of the petition, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement petition. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Health and Family Services of an opportunity for a response to the expungement petition. The counsel for the Cabinet for Health and Family Services shall respond to the expungement petition, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for Health and Family Services has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement petition or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.

(4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the petition and order the expunging of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records.

If the expungement petition pertains to felony charges originally filed in the District Court which have not resulted in an indictment by the grand jury, and the Circuit Court or District Court grants the motion, it shall dismiss the charges and order the expunging of the records. The court shall order the expunging on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required expunging action has been completed. All orders enforcing the expungement procedure shall also be expunged.

(5) If an expungement is ordered under this section, an appellate court which issued an opinion in the case may, upon motion of the petitioner in the case, order the appellate case file to be sealed and also direct that the version of the appellate opinion published on the court's Web site be modified to avoid use of the petitioner's name in the case title and body of the opinion.

(6) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall delete or remove the records from their computer systems so that any official state-performed background check will indicate that the records do not exist. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(7) This section shall be retroactive.

➔Section 3. KRS 431.079 is amended to read as follows:

(1) ~~[Beginning January 1, 2014,]~~Every petition or application filed seeking expungement ***of a conviction*** shall include a certification of eligibility for expungement. The Department of Kentucky State Police and the Administrative Office of the Courts shall certify that the agencies have conducted a criminal background check on the petitioner and whether or not the petitioner is eligible to have the requested record expunged. The Department of Kentucky State Police shall promulgate administrative regulations to implement this section, in consultation with the Administrative Office of the Courts.

(2) ***Nothing in this section shall be construed to prohibit the expungement of a case ordered by a court of competent jurisdiction.***

(3) For the purposes of this section, KRS 431.073, 431.076, and 431.078, "expungement" means the removal or deletion of records by the court and other agencies which prevents the matter from appearing on official state-performed background checks.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the State Treasury a fund designated the "expungement fund."

(2) The fund shall be administered by the Justice and Public Safety Cabinet.

(3) Beginning on the effective date of this Act, the revenues and interest from the expungement fee imposed by Section 1 of this Act shall be deposited in the fund.

(4) On January 1, April 1, July 1, and October 1 of each year, the balance of the fund shall be distributed as follows:

(a) Ten percent (10%) shall be distributed to the Department for Libraries and Archives;

(b) Forty percent (40%) shall be distributed to the Department of Kentucky State Police;

(c) Forty percent (40%) shall be equally distributed among the offices of Commonwealth's attorneys; and

(d) Ten percent (10%) shall be distributed to the Administrative Office of the Courts to be deposited into the trust and agency account for deputy circuit clerks along with the fee established in subsection (10) of Section 1 of this Act.

(5) All interest earned on moneys in the fund shall be credited to the fund and shall not lapse.

(6) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.

(7) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

Signed by Governor March 26, 2019.

CHAPTER 189

(HB 55)

AN ACT relating to reemployment of elected officials.

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

➔Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment or is serving as a volunteer with an employer that participates in the retirement system from which the member retired. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job

description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.

(17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who retired prior to January 1, 2019, and who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and ***has retired from the elected office within twelve (12) months***~~[retires following the election but]~~ prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and ***has retired from the elected office within twelve (12) months***~~[retires following the election but]~~ prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;

2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and

4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service; and

(f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:

1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or

2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body.

(18) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (17) of this section, the following shall apply to retired members, retirees, or annuitants of the systems or plans administered by the Kentucky Retirement Systems, the Judicial Form Retirement System, and the Teachers' Retirement System, who retire and begin drawing a retirement allowance on or after January 1, 2019, and are reemployed on or after January 1, 2019, by an agency participating in the systems administered by the Kentucky Retirement Systems:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed in any position with an agency participating in any of the systems administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a three (3) month period following the member's initial retirement date from the systems, the member's retirement shall be voided and the member shall repay to the system all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that is considered a regular full-time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of KRS 6.525, 21.374, 61.5955, or 61.5956;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member, annuitant, or retiree is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed or elected to a position with an agency participating in the systems administered by the Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date from the system:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and ***has retired from the elected office within twelve (12) months***~~[retires following the election but]~~ prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. The retired member may continue to draw his or her retirement allowance during the period of reemployment if:

a. The period of reemployment is not considered regular full-time as defined by paragraph (g) of this subsection; or

b. The period of reemployment is considered regular full-time but the member has not returned to reemployment for at least a twelve (12) month period following his or her initial retirement. If the member returns to reemployment in a regular full-time position after a three (3) month but prior to a twelve (12) month period following his or her initial retirement, then the member's retirement allowance shall be suspended until twelve (12) months following his or her initial retirement; and

4. The employer shall pay the employer normal cost contributions as specified by KRS 61.565(1)(b) and 61.702, on all creditable compensation earned by the employee during the period of regular full-time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf for the period of regular full-time reemployment and shall be used to pay down the unfunded liability of the systems;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed in any position with an agency participating in the systems or plans administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a one (1) month period following the member's initial retirement date from the system, the member's retirement shall be voided and the member shall repay to the system or plan all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that qualifies for participation in a position that is considered a regular full-time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of KRS 6.525, 21.374, 61.5955, or 61.5956;

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed with an agency participating in the systems administered by the Kentucky Retirement Systems after a one (1) month period following the member's initial retirement date from the system, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and ***has retired from the elected office within twelve (12) months***~~[retires following the election but]~~ prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment; and

3. The employer shall pay the employer normal cost contributions as specified by KRS 61.565(1)(b) and 61.702 on all creditable compensation earned by the employee during the period of regular full-time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf

for the period of regular full-time reemployment and shall be used to pay down the unfunded liability of the systems;

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer for which the retired member is performing volunteer services;

2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and

4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services, and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;

(f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:

1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or

2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body; and

(g) For purposes of this subsection, "regular full-time" shall mean any position that requires an average of one hundred (100) or more hours per month over a calendar or fiscal year basis, except that in the case of classified school board employees it shall be more than one hundred (100) days of work during the fiscal year. Interim, temporary, or seasonal positions as defined and time limited by KRS 61.510(21) or 78.510(21) shall not be considered regular full-time; and

(h) Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, an individual who retires and begins drawing a retirement allowance from one (1) or more of the systems or plans administered by the Teachers' Retirement System or the Judicial Form Retirement System on or after January 1, 2019, who is reemployed with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems, shall not be eligible to earn benefits in the Kentucky Employees Retirement System, County Employees Retirement System, or the State Police Retirement System for reemployment that occurs on or after January 1, 2019.

Signed by Governor March 26, 2019.

CHAPTER 190

(SB 54)

AN ACT relating to prior authorization.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) On or before the effective date of this Act, an insurer offering a health benefit plan shall develop, coordinate, or adopt a process for electronically requesting and transmitting prior authorization for a drug by providers. The process shall be accessible by providers and meet the most recent National Council for Prescription Drug Programs SCRIPT standards for electronic prior authorization transactions adopted by the United States Department of Health and Human Services. Facsimile, proprietary payer portals, and electronic forms shall not be considered electronic transmission.

(2) Unless otherwise provided in subsection (3) of this section or prohibited by state or federal law, if a provider receives a prior authorization for a drug prescribed to a covered person with a condition that requires ongoing medication therapy, and the provider continues to prescribe the drug, and the drug is used for a condition that is within the scope of use approved by the United States Food and Drug Administration or has been proven to be a safe and effective form of treatment for the patient's specific underlying condition based on clinical practice guidelines that are developed from peer-reviewed publications, the prior authorization received shall:

(a) Be valid for the lesser of:

1. One (1) year from the date the provider receives the prior authorization; or

2. Until the last day of coverage under the covered person's health benefit plan during a single plan year; and

(b) Cover any change in dosage prescribed by the provider during the period of authorization.

(3) (a) Except as provided in paragraph (b) of this subsection, the provisions of subsection (2) of this section shall not apply to:

1. Medications that are prescribed for a non-maintenance condition;

2. Medications that have a typical treatment period of less than twelve (12) months;

3. Medications where there is medical or scientific evidence that do not support a twelve (12) month approval; or

4. Medications that are opioid analgesics or benzodiazepines.

(b) Paragraph (a) of this subsection shall not apply to any medication that is prescribed to a patient in a community-based palliative care program.

➔Section 2. KRS 205.522 is amended to read as follows:

The Department for Medicaid Services and any managed care organization contracted to provide ~~[a managed care organization that provides]~~ Medicaid benefits pursuant to this chapter shall comply with the provisions of KRS 304.17A-235, 304.17A-515, ~~[and]~~ 304.17A-740 to 304.17A-743***, Sections 1, 6, 7, 8, and 9 of this Act, as applicable***.

➔Section 3. KRS 217.211 is amended to read as follows:

(1) Electronic prescribing of a drug or device under this chapter shall not interfere with a patient's freedom to select a pharmacy.

(2) Electronic prescribing software used by a practitioner to prescribe a drug or device under this chapter may include clinical messaging and messages in pop-up windows directed to the practitioner regarding a particular drug or device that supports the practitioner's clinical decision making.

(3) Drug information contained in electronic prescribing software to prescribe a drug or device under this chapter shall be consistent with Food and Drug Administration-approved information regarding a particular drug or device.

(4) ***(a)*** Electronic prescribing software used by a practitioner to prescribe a drug or device under this chapter may show information regarding a payor's formulary, copayments, or benefit plan, provided that

nothing in the software is designed to preclude a practitioner from selecting any particular pharmacy or drug or device.

(b) If electronic prescribing software does show information regarding a payor's formulary, payments, or benefit plan under paragraph (a) of this subsection, the information shall be updated at least quarterly to ensure its accuracy.

(5) ~~[Within twenty four (24) months of the National Council for Prescription Drug Programs developing and making available national standards for electronic prior authorization,]~~Each governmental unit of the Commonwealth promulgating administrative regulations relating to electronic prescribing ***shall include in the regulations***~~[shall consider such electronic prescribing and]~~ electronic prior authorization standards ***meeting the requirements of Section 1 of this Act*** in its implementation of health information technology improvements as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009.

➔Section 4. KRS 218A.171 is amended to read as follows:

(1) Electronic prescribing of a controlled substance under this chapter shall not interfere with a patient's freedom to select a pharmacy.

(2) Electronic prescribing software used by a practitioner to prescribe a controlled substance under this chapter may include clinical messaging and messages in pop-up windows directed to the practitioner regarding a particular controlled substance that supports the practitioner's clinical decision making.

(3) Drug information contained in electronic prescribing software to prescribe a controlled substance under this chapter shall be consistent with Food and Drug Administration-approved information regarding a particular controlled substance.

(4) ***(a)*** Electronic prescribing software used by a practitioner to prescribe a controlled substance under this chapter may show information regarding a payor's formulary, copayments, or benefit plan, provided that nothing in the software is designed to preclude a practitioner from selecting any particular pharmacy or controlled substance.

(b) If electronic prescribing software does show information regarding a payor's formulary, payments, or benefit plan under paragraph (a) of this subsection, the information shall be updated at least quarterly to ensure its accuracy.

(5) ~~[Within twenty four (24) months of the National Council for Prescription Drug Programs developing and making available national standards for electronic prior authorization,]~~Each governmental unit of the Commonwealth promulgating administrative regulations relating to electronic prescribing ***shall include in the regulations***~~[shall consider such electronic prescribing and]~~ electronic prior authorization standards ***meeting the requirements of Section 1 of this Act*** in its implementation of health information technology improvements as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009.

➔Section 5. KRS 304.17A-005 (Effective July 1, 2019) is amended to read as follows:

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

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "At the time of enrollment" means:

(a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and

(b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(4) "Basic health benefit plan" means any plan offered to an individual, a small group, or employer-organized association that limits coverage to physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist. Chiropractic benefits may be offered by providers licensed pursuant to KRS Chapter 312;

(5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(7) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(8) ~~[(a)]~~"Creditable coverage"***:***

(a) Means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10, United States Code, including medical and dental care for members and certain former members of the uniformed services, and for their dependents; for purposes of Chapter 55 of Title 10, United States Code, "uniformed services" means the Armed Forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5, United States Code, such as the Federal Employees Health Benefit Program;

9. A public health plan as established or maintained by a state, the United States government, a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan;

10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)); or

11. Title XXI of the Social Security Act, such as the State Children's Health Insurance Program***; and***~~[.]~~

(b) ~~[This term]~~Does not include coverage consisting solely of coverage of excepted benefits as defined in~~[subsection (14) of]~~ this section;

(9) "Dependent" means any individual who is or may become eligible for coverage under the terms of an individual or group health benefit plan because of a relationship to a participant;

(10) "Employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan as defined by ERISA;

(11) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of

time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(12) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200~~[, 304.17A.210,]~~ and 304.17A-220, and except as otherwise provided by the definition of "large group" contained in~~[subsection (30) of]~~ this section, an employer-organized association shall not be treated as an association, small group, or large group under this subtitle, provided that an employer-organized association that is a bona fide association as defined in~~[subsection (5) of]~~ this section shall be treated as a large group under this subtitle;

(13) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(14) "Excepted benefits" means benefits under one (1) or more, or any combination~~[thereof,]~~ of the following:

(a) Coverage only for accident, including accidental death and dismemberment, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan; and

(q) Health flexible spending arrangements;

(15) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(16) "Group health plan" means a plan, including a self-insured plan, of or contributed to by an employer, including a self-employed person, or employee organization, to provide health care directly or otherwise to the employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families;

(17) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;

(18) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;

(19) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(20) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:

1. Waived coverage under KRS 304.17A-210(2); or

2. Did not elect family coverage that was available through the association or group market;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(22) "Health benefit plan"***:***

(a) Means any***:***

1. Hospital or medical expense policy or certificate;

2. Nonprofit hospital, medical-surgical, and health service corporation contract or certificate;

3. Provider sponsored integrated health delivery network;

4. ~~[A]~~Self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA;

5. Health maintenance organization contract***, except contracts to provide Medicaid benefits under KRS Chapter 205***; or

6. ~~[Any]~~Health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky***;*** ~~[,]~~ and

(b) Does not include***:***

1. Policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement~~[policy]~~, long-term care, Medicare supplement, specified disease, ***or*** vision care***;*** ~~[,]~~

2. Coverage issued as a supplement to liability insurance***;*** ~~[,]~~

3. Insurance arising out of a workers' compensation or similar law***;*** ~~[,]~~

4. Automobile medical-payment insurance***;*** ~~[,]~~

5. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance***;*** ~~[,]~~

6. Short-term coverage***;*** ~~[,]~~

7. Student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure***;*** ~~[,]~~

8. Medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract***;*** ~~[, or]~~

9. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code***;*** ~~[, or]~~

10. Limited health service benefit plans***;*** ~~[, or]~~

11. Direct primary care agreements established under KRS 311.6201, 311.6202, 314.198, and 314.199; ***or***

12. Coverage provided under KRS Chapter 205;

(23) "Health care provider" or "provider" means any~~[facility or service required to be licensed pursuant to KRS Chapter 216B, a pharmacist as defined pursuant to KRS Chapter 315, or home medical equipment and services provider as defined pursuant to KRS 309.402, and any of the following independent practicing practitioners]~~:

(a) ***Advanced practice registered nurse licensed under KRS Chapter 314***~~[Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311]~~;

(b) ***Chiropractor***~~[Chiropractors]~~ licensed under KRS Chapter 312;

(c) ***Dentist***~~[Dentists]~~ licensed under KRS Chapter 313;

(d) ***Facility or service required to be licensed under KRS Chapter 216B***~~[Optometrists licensed under KRS Chapter 320]~~;

(e) ***Home medical equipment and services provider licensed under KRS Chapter 309***~~[Physician assistants regulated under KRS Chapter 311]~~;

(f) ***Optometrist licensed under KRS Chapter 320;***~~[Advanced practice registered nurses licensed under KRS Chapter 314; and]~~

(g) ***Pharmacist licensed under KRS Chapter 315;***

(h) Physician, osteopath, or podiatrist licensed under KRS Chapter 311;

(i) Physician assistant regulated under KRS Chapter 311; and

(j) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(24) (a) "Health care service" means health care procedures, treatments, or services rendered by a provider within the scope of practice for which the provider is licensed.

(b) Health care service includes the provision of prescription drugs, as defined in KRS 315.010, and home medical equipment, as defined in KRS 309.402;

(25) "Health facility" or "facility" has the same meaning as in KRS 216B.015;

(26) ~~[(24)]~~ (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia,~~[and]~~ Wilson's disease***, and amyotrophic lateral sclerosis***;

(27) ~~[(25)]~~ "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(28) ~~[(26)]~~ "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan. The individual market includes an association plan that is not employer related, issued to individuals on an individually underwritten basis, other than an employer-organized association or a bona fide association, that has been organized and is maintained in good faith for purposes other than obtaining insurance for its members and that has a constitution and bylaws;

(29) ~~[(27)]~~ "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(30) ~~[(28)]~~ "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(31) ~~[(29)]~~ "Kentucky Access" has the meaning provided in KRS 304.17B-001~~[(17)]~~;

(32) ~~[(30)]~~ "Large group" means:

(a) An employer with fifty-one (51) or more employees;

(b) An affiliated group with fifty-one (51) or more eligible members; or

(c) An employer-organized association that is a bona fide association as defined in~~[subsection (5) of]~~ this section;

(33) ~~[(31)]~~ "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(34) ~~[(32)]~~ "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(35) "Medically necessary health care services" means health care services that a provider would render to a patient for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is:

(a) In accordance with generally accepted standards of medical practice; and

(b) Clinically appropriate in terms of type, frequency, extent, and duration;

(36) ~~[(33)]~~ "Participant" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of the employer or members of the organization, or whose beneficiaries may be eligible to receive any benefit as established in Section 3(7) of ERISA;

(37) ~~[(34)]~~ "Preventive services" means medical services for the early detection of disease that are associated with substantial reduction in morbidity and mortality;

(38) ~~[(35)]~~ "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(39) ~~[(36)]~~ "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(40) ~~[(37)]~~ "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(41) ~~[(38)]~~ "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(42) ~~[(39)]~~ "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(43) ~~[(40)]~~ "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(44) ~~[(41)]~~ "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(45) ~~[(42)]~~ "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members;

(46) ~~[(43)]~~ "Standard benefit plan" means the plan identified in KRS 304.17A-250; and

(47) ~~[(44)]~~ "Telehealth":

(a) Means the delivery of health care-related services by a health care provider who is licensed in Kentucky to a patient or client through a face-to-face encounter with access to real-time interactive audio and video technology or store and forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the patient's or client's medical history prior to the telehealth encounter;

(b) Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and

(c) Shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.

➔Section 6. KRS 304.17A-580 is amended to read as follows:

(1) An insurer offering health benefit plans shall educate its insureds about the availability, location, and appropriate use of emergency and other medical services, cost-sharing provisions for emergency services, and the availability of care outside an emergency department.

(2) An insurer offering health benefit plans shall cover emergency medical conditions and shall pay for emergency department screening and stabilization services both in-network and out-of-network without prior authorization for conditions that reasonably appear to a prudent layperson to constitute an emergency medical condition based on the patient's presenting symptoms and condition. An insurer shall be prohibited from denying the emergency ***department*** ~~[room]~~ services and altering the level of coverage or cost-sharing requirements for any condition or conditions that constitute an emergency medical condition as defined in KRS 304.17A-500.

(3) Emergency department personnel shall contact a patient's primary care provider or insurer, as appropriate, ~~[as quickly as possible]~~ to discuss follow-up and poststabilization care and promote continuity of care.

(4) Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited-benefit health insurance policies.

➔Section 7. KRS 304.17A-600 is amended to read as follows:

As used in KRS 304.17A-600 to 304.17A-633:

(1) (a) "Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:

1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and

2. Benefit coverage is therefore denied, reduced, or terminated.

(b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;

(3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;

(4) "Covered person" means a person covered under a health benefit plan;

(5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(6) "Health benefit plan" ***has the same meaning as in Section 5 of this Act, except that*** ~~[means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and~~

~~does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; or limited health service benefit plans; and]~~ for purposes of KRS 304.17A-600 to 304.17A-633 ***the term*** includes short-term coverage policies;

(7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;

(9) "Internal appeals process" means a formal process, as set forth in KRS 304.17A-617, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;

(10) "Nationally recognized accreditation organization" means a private nonprofit entity that sets national utilization review and internal appeal standards and conducts review of insurers, agents, or independent review entities for the purpose of accreditation or certification. Nationally recognized accreditation organizations shall include the Accreditation Association for Ambulatory Health Care (AAAHC), the National Committee for Quality Assurance (NCQA), the American Accreditation Health Care Commission (URAC), the Joint Commission, or any other organization identified by the department;

(11) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;

(12) "Prospective review" means ***a*** utilization review that is conducted prior to ***the provision of health care services.*** ~~[a hospital admission or a course of treatment]~~ ***"Prospective review" also includes any insurer's or agent's requirement that a covered person or provider notify the insurer or agent prior to providing a health care service, including but not limited to prior authorization, step therapy, preadmission review, pretreatment review, utilization, and case management***;

(13) ~~["Provider" shall have the same meaning as set forth in KRS 304.17A-005;~~

~~(14) ~~]"Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria;

(14) ~~[(15)]~~ "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review;

(15) ~~[(16)]~~ "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;

(16) ~~[(17)]~~ (a) "Urgent ***health*** care ***services***" means health care or treatment with respect to which the application of the time periods for making nonurgent determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

2. In the opinion of a physician with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the care or treatment that is the subject of the utilization review.~~[; and]~~

(b) ~~["]~~Urgent ***health*** care ***services include***~~[" shall include]~~ all requests for hospitalization and outpatient surgery;

(17)~~[(18)]~~ "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review; and

(18)~~[(19)]~~ "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

➔Section 8. KRS 304.17A-603 is amended to read as follows:

(1) KRS 304.17A-600 to 304.17A-633 shall apply to any insurer that covers citizens of the Commonwealth under a health benefit plan.

(2) An insurer shall maintain written procedures for:

(a)~~[(1)]~~ Determining whether a requested service, treatment, drug, or device is covered under the terms of a covered person's health benefit plan;

(b)~~[(2)]~~ Making utilization review determinations; and

(c)~~[(3)]~~ Notifying covered persons, authorized persons, and providers acting on behalf of covered persons of its determinations.

(3) An insurer shall make the written procedures required by this section readily accessible on its Web site to covered persons, authorized persons, and providers.

(4) (a) If an insurer requires preauthorization to be obtained for a service to be covered, the insurer shall maintain information on its publicly accessible Web site about the list of services and codes for which preauthorization is required. The Web site shall indicate, for each service required to be preauthorized:

1. When preauthorization was required, including the effective date or dates and the termination date or dates, if applicable;

2. The date the requirement was listed on the insurer's Web site; and

3. Where applicable, the date that preauthorization was removed.

(b) An insurer shall maintain a complete list of services for which preauthorization is required, including for all services where preauthorization is performed by an entity under contract with the insurer.

(c) An insurer shall not deny a claim for failure to obtain preauthorization if the preauthorization requirement was not in effect on the date of service on the claim.

(5) Except as otherwise provided in this subtitle, prior authorization shall not be required for births or the inception of neonatal intensive care services and notification shall not be required as a condition of payment.

(6) Unless otherwise specified by the provider's contract, an insurer shall not deem as incidental or deny supplies that are routinely used as part of a procedure when:

(a) An associated procedure has been preauthorized; or

(b) Preauthorization for the procedure is not required.

➔Section 9. KRS 304.17A-607 is amended to read as follows:

(1) An insurer or private review agent shall not provide or perform utilization reviews without being registered with the department. A registered insurer or private review agent shall:

(a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported by licensed physicians with access to consultation with other appropriate physicians to carry out its utilization review activities;

(b) Ensure that***, for any contract entered into on or after the effective date of this Act for the provision of utilization review services,*** only licensed physicians***, who are of the same or similar specialty and subspecialty, when possible, as the ordering provider,*** shall:

1. Make a utilization review decision to deny, reduce, limit, or terminate a health care benefit or to deny, or reduce payment for a health care service because that service is not medically necessary, experimental, or investigational except in the case of a health care service rendered by a chiropractor or optometrist where the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky; and

2. Supervise qualified personnel conducting case reviews;

(c) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and subspecialty cases;

(d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except as provided in the Health Insurance Portability and Accountability Act, Subtitle F, secs. 261 to 264 and 45 C.F.R. secs. 160 to 164 and other applicable laws and administrative regulations;

(e) Provide a toll free telephone line for covered persons, authorized persons, and providers to contact the insurer or private review agent and be accessible to covered persons, authorized persons, and providers for forty (40) hours a week during normal business hours in this state;

(f) Where an insurer, its agent, or private review agent provides or performs utilization review, be available to conduct utilization review during normal business hours and extended hours in this state on Monday and Friday through 6:00 p.m., including federal holidays;

(g) Provide decisions to covered persons, authorized persons, and all providers on appeals of adverse determinations and coverage denials of the insurer or private review agent, in accordance with this section and administrative regulations promulgated in accordance with KRS 304.17A-609;

(h) Except for retrospective review of an emergency admission where the covered person remains hospitalized at the time the review request is made, which shall be considered a concurrent review, ***or as otherwise provided in this subtitle,*** provide a utilization review decision ~~[relating to urgent and nonurgent care]~~in accordance with ***the timeframes in paragraph (i) of this subsection and*** 29 C.F.R. Part 2560, including ~~[the timeframes and]~~ written notice of the decision~~[. A written notice in electronic format, including e-mail or facsimile, may suffice for this purpose where the covered person, authorized person, or provider has agreed in advance in writing to receive such notices electronically and shall include the required elements of subsection (j) of this section]~~;

(i) ***1. Render a utilization review decision concerning urgent health care services, and notify the covered person, authorized person, or provider of that decision no later than twenty-four (24) hours after obtaining all necessary information to make the utilization review decision; and***

2. If the insurer or agent requires a utilization review decision of nonurgent health care services, render a utilization review decision and notify the covered person, authorized person, or provider of the decision within five (5) days of obtaining all necessary information to make the utilization review decision.

For purposes of this paragraph, "necessary information" is limited to:

a. The results of any face-to-face clinical evaluation;

b. Any second opinion that may be required; and

c. Any other information determined by the department to be necessary to making a utilization review determination~~[Provide a utilization review decision within twenty-four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire]~~;

(j) Provide written notice of review decisions to the covered person, authorized person, and providers. ***The written notice may be provided in an electronic format, including e-mail or facsimile, if the covered person, authorized person, or provider has agreed in advance in writing to receive the notices electronically.*** An insurer or agent that denies ***step therapy, as defined in KRS 304.17A-163, overrides or denies*** coverage or reduces payment for a treatment, procedure, drug that requires prior approval, or device shall include in the written notice:

1. A statement of the specific medical and scientific reasons for denial or reduction of payment or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

2. The ~~[state of licensure,]~~medical license number~~[,]~~ and the title of the reviewer making the decision;

3. Except for retrospective review, a description of alternative benefits, services, or supplies covered by the health benefit plan, if any; and

4. Instructions for initiating or complying with the insurer's internal appeal procedure, as set forth in KRS 304.17A-617, stating, at a minimum, whether the appeal shall be in writing, and any specific filing procedures, including any applicable time limitations or schedules, and the position and phone number of a contact person who can provide additional information;

(k) Afford participating physicians an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and afford other participating providers an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice; and

(l) Comply with its own policies and procedures on file with the department or, if accredited or certified by a nationally recognized accrediting entity, comply with the utilization review standards of that accrediting entity where they are comparable and do not conflict with state law.

(2) The insurer's ***or private review agent's*** failure to make a determination and provide written notice within the time frames set forth in this section shall be deemed to be ***a prior authorization for the health care services or benefits subject to the review***~~[an adverse determination by the insurer for the purpose of initiating an internal appeal as set forth in KRS 304.17A-617]~~. This provision shall not apply where the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the insurer's control.

(3) An insurer or private review agent shall submit a copy of any changes to its utilization review policies or procedures to the department. No change to policies and procedures shall be effective or used until after it has been filed with and approved by the commissioner.

(4) A private review agent shall provide to the department the names of the entities for which the private review agent is performing utilization review in this state. Notice shall be provided within thirty (30) days of any change.

➔Section 10. KRS 304.17A-430 is amended to read as follows:

(1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

(a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;

(b) An individual entitled to benefits under the health benefit plan has been diagnosed with a high-cost condition on or before the effective date of the individual's coverage for coverage issued on a guarantee-issue basis after July 15, 1995;

(c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under KRS 304.17A-200;

(d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

(e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:

(a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and

(b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.

(3) (a) There is established within the guaranteed acceptance program the alternative underwriting mechanism that a participating insurer may elect to use. An insurer that elects this mechanism shall use the underwriting criteria that the insurer has used for the past twelve (12) months for purposes of the program plan requirement in paragraph (b) of subsection (1) of this section for high-risk individuals rather than using the criteria established in KRS 304.17A-005~~[(24)]~~ and 304.17A-280 for high-cost conditions.

(b) An insurer that elects to use the alternative underwriting mechanism shall make written application to the commissioner. Before the insurer may implement the mechanism, the insurer shall obtain approval of the commissioner. Annually thereafter, the insurer shall obtain the commissioner's approval of the underwriting criteria of the insurer before the insurer may continue to use the alternative underwriting mechanism.

➔Section 11. This Act takes effect January 1, 2020.

Signed by Governor March 26, 2019.

CHAPTER 191

(SB 50)

AN ACT relating to abortion.

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

➔Section 1. KRS 213.101 is amended to read as follows:

(1) Each ***abortion as defined in KRS 311.720***~~[induced termination of pregnancy]~~ which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution within fifteen (15) days after the end of the month in which the ***abortion***~~[termination]~~ occurred. If the ***abortion***~~[induced termination of pregnancy]~~ was performed outside an institution, the attending physician shall prepare and file the report within fifteen (15) days after the end of the month in which the ***abortion***~~[termination]~~ occurred. The report shall include all the information the physician is required to certify in writing or determine under KRS 311.782,~~[and]~~ 311.783, ***and Section 2 of this Act,*** but shall not include information which will identify the physician, woman, or man involved.

(2) ***Each prescription issued for RU-486, cytotec, pitocin, mifeprex, misoprostol, or any other drug or combination of drugs for which the primary indication is the induction of abortion as defined in KRS 311.720 shall be reported to the Vital Statistics Branch within fifteen (15) days after the end of the month in which the prescription was issued as required by Section 2 of this Act, but the report shall not include information which will identify the woman involved or anyone who may be picking up the prescription on behalf of the woman.***

(3) The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.

(4)~~[(3)]~~ By September 30 of each year, the Vital Statistics Branch shall issue a public report that provides statistics ***on all data collected including the type of abortion procedure used*** for the previous calendar year compiled from all of the reports covering that calendar year submitted to the cabinet in accordance with this

section for each of the items listed in ***subsections (1) and (2)***~~[subsection (1)]~~ of this section. Each annual report shall also provide statistics for all previous calendar years in which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The Vital Statistics Branch shall ensure that none of the information included in the report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted. ***Each annual report shall be made available on the cabinet's Web site.***

(5)~~[(4)]~~ (a) Any person or institution who fails to submit a report by the end of thirty (30) days following the due date set in ***subsections (1) and (2)***~~[subsection (1)]~~ of this section shall be subject to a late fee of five hundred dollars ($500) for each additional thirty (30) day period or portion of a thirty (30) day period the report is overdue.

(b) Any person or institution who fails to submit a report, or who has submitted only an incomplete report, more than one (1) year following the due date set in ***subsections (1) and (2)***~~[subsection (1)]~~ of this section, may in a civil action brought by the Vital Statistics Branch be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

(c) Failure by any physician to comply with the requirements of this section, other than filing a late report, or to submit a complete report in accordance with a court order shall subject the physician to KRS 311.595.

(6)~~[(5)]~~ Intentional falsification of any report required under this section is a Class A misdemeanor.

(7)~~[(6)]~~ ~~[Within ninety (90) days of January 9, 2017,]~~The Vital Statistics Branch shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in compliance with this section.

➔SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) Each prescription issued for RU-486, cytotec, pitocin, mifeprex, misoprostol, or any other drug or combination of drugs for which the primary indication is the induction of abortion as defined in KRS 311.720 shall be reported on a report form provided by the cabinet within fifteen (15) days after the end of the month in which the prescription was issued.

(2) Information on the potential ability of a physician to reverse the effects of prescription drugs for which the primary indication is the induction of abortion, including where additional information about this possibility may be obtained and contact information for assistance in locating a physician who may aid in the reversal, shall be provided with each prescription issued for RU-486, cytotec, pitocin, mifeprex, misoprostol, or any other drug or combination of drugs for which the primary indication is the induction of abortion as defined in KRS 311.720.

(3) For each abortion reported to the Vital Statistics Branch as required by Section 1 of this Act, the report shall also state whether any abortion complication was known to the provider as a result of the abortion. Abortion complications to be reported shall include only the following physical or psychological conditions arising from the induction or performance of an abortion:

(a) Uterine laceration;

(b) Cervical laceration;

(c) Infection;

(d) Heavy bleeding that causes symptoms of hypovolemia or the need for a blood transfusion;

(e) Pulmonary embolism;

(f) Deep vein thrombosis;

(g) Failure to terminate the pregnancy;

(h) Incomplete abortion or retained tissue;

(i) Pelvic inflammatory disease;

(j) Missed ectopic pregnancy;

(k) Cardiac arrest;

(l) Respiratory arrest;

(m) Renal failure;

(n) Shock;

(o) Amniotic fluid embolism;

(p) Coma;

(q) Placenta Previa in subsequent pregnancies;

(r) Pre-term delivery in subsequent pregnancies;

(s) Free fluid in the abdomen;

(t) Hemolytic reaction due to the administration of ABO-incompatible blood or blood products;

(u) Hypoglycemia occurring while the patient is being treated at the abortion facility;

(v) Allergic reaction to anesthesia or abortion-inducing drugs;

(w) Psychological complications including depression, suicidal ideation, anxiety, and sleeping disorders;

(x) Death; and

(y) Any other adverse event as defined by criteria provided in the Food and Drug Administration Safety Information and Adverse Event Reporting Program.

➔Section 3. KRS 311.723 is amended to read as follows:

(1) No abortion shall be performed except by a physician after either:

(a) He determines that, in his best clinical judgment, the abortion is necessary; or

(b) He receives what he reasonably believes to be a written statement signed by another physician, hereinafter called the "referring physician," certifying that in the referring physician's best clinical judgment the abortion is necessary, and, in addition, he receives a copy of the report form required by KRS ***213.101***~~[213.055]~~.

(2) No abortion shall be performed except in compliance with regulations which the cabinet shall issue to assure that:

(a) Before the abortion is performed, the pregnant woman shall have a private medical consultation either with the physician who is to perform the abortion or with the referring physician in a place, at a time and of a duration reasonably sufficient to enable the physician to determine whether, based upon his best clinical judgment, the abortion is necessary;

(b) The physician who is to perform the abortion or the referring physician will describe the basis for his best clinical judgment that the abortion is necessary on a form prescribed by the cabinet as required by KRS ***213.101***~~[213.055]~~; and

(c) Paragraph (a) of this subsection shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that an emergency exists on a form prescribed by the cabinet as required by ***213.101***~~[KRS 213.055]~~.

(3) Notwithstanding any statute to the contrary, nothing in this chapter shall be construed as prohibiting a physician from prescribing or a woman from using birth control methods or devices, including, but not limited to, intrauterine devices, oral contraceptives, or any other birth control method or device.

➔Section 4. KRS 311.735 is amended to read as follows:

(1) Prior to performing an abortion, the physician who is to perform the abortion or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion is to be performed. If it is not reasonably possible to notify the spouse prior to the abortion, the physician or his agent shall do so, if reasonably possible, within thirty (30) days of the abortion.

(2) (a) The requirements of this section shall not apply if, before the abortion is performed, either party to a marriage has filed a petition for dissolution of marriage which has been served on the respondent;

(b) The requirements of this section shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the cabinet as required by KRS ***213.101***~~[213.055]~~, and the physician or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion was performed, within thirty (30) days of the abortion.

(3) Failure to notify a spouse as required by this section is prima facie evidence of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of a husband.

➔Section 5. KRS 311.725 is amended to read as follows:

(1) No abortion shall be performed or induced except with the voluntary and informed written consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(a) At least twenty-four (24) hours prior to the abortion, a physician, licensed nurse, physician assistant, or social worker to whom the responsibility has been delegated by the physician has verbally informed the woman of all of the following:

1. The nature and purpose of the particular abortion procedure or treatment to be performed and of those medical risks and alternatives to the procedure or treatment that a reasonable patient would consider material to the decision of whether or not to undergo the abortion;

2. The probable gestational age of the embryo or fetus at the time the abortion is to be performed;~~[and]~~

3. The medical risks associated with the pregnant woman carrying her pregnancy to term; ***and***

4. The potential ability of a physician to reverse the effects of prescription drugs intended to induce abortion, where additional information about this possibility may be obtained, and contact information for assistance in locating a physician who may aide in the reversal;

(b) At least twenty-four (24) hours prior to the abortion, in an individual, private setting, a physician, licensed nurse, physician assistant, or social worker to whom the responsibility has been delegated by the physician has informed the pregnant woman that:

1. The cabinet publishes the printed materials described in paragraphs (a)***, (b), and (c)*** ~~[and (b)]~~of subsection (2) of this section and that she has a right to review the printed materials and that copies will be provided to her by the physician, licensed nurse, physician assistant, or social worker free of charge if she chooses to review the printed materials;

2. Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials published by the cabinet; and

3. The father of the fetus is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion;

(c) At least twenty-four (24) hours prior to the abortion, a copy of the printed materials has been provided to the pregnant woman if she chooses to view these materials;

(d) The pregnant woman certifies in writing, prior to the performance or inducement of the abortion:

1. That she has received the information required to be provided under paragraphs (a), (b), and (c) of this subsection; and

2. That she consents to the particular abortion voluntarily and knowingly, and she is not under the influence of any drug of abuse or alcohol; and

(e) Prior to the performance or inducement of the abortion, the physician who is scheduled to perform or induce the abortion or the physician's agent receives a copy of the pregnant woman's signed statement, on a form which may be provided by the physician, on which she consents to the abortion and that includes the certification required by paragraph (d) of this subsection.

(2) By January 1, 1999, the cabinet shall cause to be published in English in a typeface not less than 12 point type the following materials:

(a) Materials that inform the pregnant woman about public and private agencies and services that are available to assist her through her pregnancy, upon childbirth, and while her child is dependent, including, but not limited to, adoption agencies. The materials shall include a comprehensive list of the available agencies and a description of the services offered by the agencies and the telephone numbers and addresses of the agencies, and inform the pregnant woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care and about the support obligations of the father of a child who is born alive. The cabinet shall ensure that the materials are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this section;~~[and]~~

(b) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two (2) week gestational increments for the first sixteen (16) weeks of her pregnancy and at four (4) week gestational increments from the seventeenth week of her pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The materials shall use language that is understandable by the average person who is not medically trained, shall be objective and nonjudgmental, and shall include only accurate scientific information about the zygote, blastocyte, embryo, or fetus at the various gestational increments. The materials shall include, for each of the two (2) of four (4) week increments specified in this paragraph, a pictorial or photographic depiction of the zygote, blastocyte, embryo, or fetus. The materials shall also include, in a conspicuous manner, a scale or other explanation that is understandable by the average person and that can be used to determine the actual size of the zygote, blastocyte, embryo, or fetus at a particular gestational increment as contrasted with the depicted size of the zygote, blastocyte, embryo, or fetus at that gestational increment***; and***

(c) Materials that inform the pregnant woman of the potential ability of a physician to reverse the effects of prescription drugs intended to induce abortion, where additional information about this possibility may be obtained, and contact information for assistance in locating a physician who may aide in the reversal.

(3) Upon submission of a request to the cabinet by any person, hospital, physician, or medical facility for one (1) or more copies of the materials published in accordance with subsection (2) of this section, the cabinet shall make the requested number of copies of the materials available to the person, hospital, physician, or medical facility that requested the copies.

(4) If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the conditions specified in subsection (1) of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency exists in the medical record of the pregnant woman.

(5) If the conditions specified in subsection (1) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

(6) The failure of a physician to satisfy the conditions of subsection (1) of this section prior to performing or inducing an abortion upon a pregnant woman may be the basis of disciplinary action pursuant to KRS 311.595.

(7) The cabinet shall charge a fee for each copy of the materials distributed in accordance with subsections (1) and (3) of this section. The fee shall be sufficient to cover the cost of the administration of the materials published in accordance with subsection (2) of this section, including the cost of preparation and distribution of materials.

Signed by Governor March 26, 2019.

CHAPTER 192

(HB 4)

AN ACT relating to administrative regulations.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO BE NUMBERED AS KRS 13A.336 AND TO READ AS FOLLOWS:

(1) (a) After the last regularly scheduled meeting of the Administrative Regulation Review Subcommittee in a calendar year, but by the thirty-first day of December of that calendar year, the staff of the Administrative Regulation Review Subcommittee shall submit a report to the co-chairs of that subcommittee regarding administrative regulations that were found deficient by any subcommittee of the Commission during that calendar year.

(b) The report in paragraph (a) of this subsection shall contain:

1. Effective administrative regulations that were found deficient; and

2. Administrative regulations filed with the Commission that were found deficient.

(2) The report shall not contain any administrative regulation that was found deficient and:

(a) Has been withdrawn; or

(b) Is no longer considered deficient under Section 15 of this Act.

(3) The report shall contain at least the following information for each administrative regulation in the report:

(a) Administrative regulation number and title;

(b) Name of the promulgating agency;

(c) Date of deficiency determination;

(d) Name of the subcommittee that made the deficiency determination;

(e) Effective date, if it is in effect;

(f) The finding of deficiency and any other findings, recommendations, or comments sent to the Governor; and

(g) If applicable under Section 13 of this Act, the Governor's determination regarding the deficiency, if received by the Commission.

(4) The first page of the report required by subsection (1) of this section shall contain the following text, in fourteen (14) point font or larger:

"To ratify the deficiency findings listed in this report, a co-chair or other legislator may request that Legislative Research Commission staff prepare a bill:

(a) Declaring that one (1) or more administrative regulations listed in the report shall be void; or

(b) Amending the relevant subject matter statutes in conformity with the findings of deficiency."

➔Section 2. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including, but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon ***effective*** administrative regulations ***pursuant to subsections (2), (3), and (4) of this section or administrative regulations filed with***~~[submitted to it by]~~ the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That an ***effective*** administrative regulation ***or an administrative regulation filed with the Commission*** is deficient because it:

1. Is wrongfully promulgated;

2. Appears to be in conflict with an existing statute;

3. Appears to have no statutory authority for its promulgation;

4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;

5. Fails to use tiering when tiering is applicable;

6. Is in excess of the administrative body's authority;

7. Appears to impose an unreasonable burden on government or small business, or both; or

8. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute; or

(c) That an administrative regulation should be amended or repealed.

(3) ***The subcommittee may review an effective administrative regulation if requested by a member of the subcommittee.***

(4) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

➔Section 3. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;

(7) Prepare the Kentucky Administrative Regulations Service;

(8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;

(9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;

(10) ***(a)*** Change items in an administrative regulation in response to a specific written request for a technical amendment submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation. Examples of technical amendments include the address of the administrative body, citations to statutes or other administrative regulations if a format change within that statute or administrative regulation has changed the numbering or lettering of parts, or other changes in accordance with KRS 13A.312; ***and***

(b) Notify the administrative body within thirty (30) business days of receipt of a technical amendment letter the status of the request including:

1. Any requested changes that are accepted as technical amendments; and

2. Any requested changes that are not accepted as technical amendments;

(11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, formatting, or filing requirements established by the provisions of KRS 13A.190(4) to (10), 13A.220, 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing;

(12) Maintain a list of all administrative regulation numbers and the corresponding last effective date, based on the information included in the history line of each administrative regulation; and

(13) Perform other duties required by the Commission or by a subcommittee.

➔Section 4. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that:

(a) Must be placed into effect immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of federal or state funds;

3. Meet a deadline for the promulgation of an administrative regulation that is established by state statute or federal law; or

4. Protect human health and the environment; and

(b) 1. Is temporary in nature and will expire as provided in this section; or

2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the Administrative Register in accordance with the publication deadline established in KRS 13A.050(3).

(3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire ***two hundred seventy (270)***~~[one hundred eighty (180)]~~ days after the date of filing or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the time for filing a statement of consideration as provided by KRS 13A.280(2)(b), an emergency administrative regulation shall remain in effect for ***two hundred seventy (270)***~~[one hundred eighty (180)]~~ days after the date of filing plus the number of days extended under the provisions of KRS 13A.280(2)(b) or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) Except as established in subsection (5) of this section, an emergency administrative regulation with the same number or title or governing the same subject matter shall not be filed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to the previously filed emergency administrative regulation shall be promulgated.

(5) If an emergency administrative regulation with the same number or title or governing the same subject matter as an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency required by subsection (6) of this section.

(6) Each emergency administrative regulation shall contain a statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will be replaced by an ordinary administrative regulation, the following statement: "The ordinary administrative regulation (is or is not) identical to this emergency administrative regulation.";

(e) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and

(f) If applicable, the explanation required by subsection (5) of this section.

(7) (a) An administrative body shall attach the:

1. Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

2. Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(b) An administrative body shall file with the regulations compiler:

1. The original and five (5) copies of the emergency administrative regulation; and

2. At the same time as, or prior to, filing the paper version, an electronic version of the emergency administrative regulation and the attachments required by paragraph (a) of this subsection saved as a single document for each emergency administrative regulation in an electronic format approved by the regulations compiler.

(c) The original and four (4) copies of each emergency administrative regulation shall be stapled in the top left corner. The fifth copy of each emergency administrative regulation shall not be stapled. The original and the five (5) copies of each emergency administrative regulation shall be grouped together.

(8) (a) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing and public comment period pursuant to KRS 13A.270(1). The public hearing and public comment period information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation:

1. The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and

2. A public hearing and public comment period shall not be required for the emergency administrative regulation.

(9) The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(12) (a) If an emergency administrative regulation that was intended to be replaced by an ordinary administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the administrative regulation be withdrawn.

➔Section 5. KRS 13A.270 is amended to read as follows:

(1) (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (7) of this section, hold a hearing, open to the public, on the administrative regulation.

(b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month ***following the month*** in which the administrative regulation is published in the Administrative Register.

(c) The administrative body shall accept written comments regarding the administrative regulation during the comment period. The comment period shall begin on the date the administrative regulation is filed with the regulations compiler and shall run until 11:59 p.m. on the last day of the calendar month ***following the month*** in which the administrative regulation was published in the Administrative Register.

(2) Each administrative regulation shall state:

(a) The place, time, and date of the scheduled public hearing;

(b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;

(d) The deadline for submitting written comments regarding the administrative regulation in accordance with subsection (1)(c) of this section; and

(e) The name, position, mailing address, e-mail address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.

(3) (a) A person who wishes to be notified that an administrative body has filed an administrative regulation shall:

1. Contact the administrative body by telephone or written letter to request that the administrative body send the information required by paragraph (c) or (d) of this subsection to the person; or

2. Complete an electronic registration form located on a centralized state government Web site developed and maintained by the Commonwealth Office of Technology.

(b) A registration submitted pursuant to paragraph (a) of this subsection shall:

1. Indicate whether the person wishes to receive notification regarding:

a. All administrative regulations promulgated by an administrative body; or

b. Each administrative regulation that relates to a specified subject area. The subject areas shall be provided by the administrative bodies and shall be listed on the centralized state government Web site in alphabetical order;

2. Include a request for the person to provide an e-mail address in order to receive regulatory information electronically;

3. Be valid for a period of four (4) years from the date the registration is submitted, or until the person submits a written request to be removed from the notification list, whichever occurs first; and

4. Be transmitted to the promulgating administrative body, if the registration was made through the centralized state government Web site. The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties, other than the promulgating administrative body.

(c) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be e-mailed:

1. To every person who has:

a. Registered pursuant to paragraph (a) of this subsection; and

b. Provided an e-mail address as part of the registration request;

2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

3. With a request from the administrative body that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.

(d) Within five (5) working days after the date the administrative regulation is filed with the Commission, the administrative body shall mail the following information to every person who has registered pursuant to paragraph (a) of this subsection but did not provide an e-mail address:

1. A cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation;

2. A copy of the regulatory impact analysis required by KRS 13A.240 completed in detail sufficient to put the individual on notice as to the specific contents of the administrative regulation, including all proposed amendments to the administrative regulation; and

3. A statement that a copy of the administrative regulation may be obtained from the Commission's Web site, which can be accessed on-line through public libraries or any computer with Internet access. The Commission's Web site address shall be included in the statement.

(e) An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with KRS 13A.280 to persons who have registered pursuant to paragraph (a) of this subsection, unless the person requested a copy pursuant to KRS 13A.280(8).

(4) (a) If small business may be impacted by an administrative regulation, the administrative body shall e-mail a copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), to the chief executive officer of the Commission on Small Business Advocacy within one (1) working day after the date the administrative regulation is filed with the Commission.

(b) The e-mail shall include a request from the administrative body that the Commission on Small Business Advocacy review the administrative regulation in accordance with KRS 11.202(1)(e) and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report shall be filed with the regulations compiler.

(c) An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with KRS 13A.280 to the Commission on Small Business Advocacy, unless its chief executive officer requested a copy pursuant to KRS 13A.280(8).

(5) (a) If a local government may be impacted by an administrative regulation, the administrative body shall send, by e-mail if the local government has an e-mail address, a copy of the administrative regulation as filed and all attachments required by KRS 13A.230(1) to each local government in the state within one (1) working day after the date the administrative regulation is filed with the Commission. If the local government does not have an e-mail address, the material shall not be sent.

(b) The e-mail shall include a request from the administrative body that the local government review the administrative regulation in the same manner as would the Commission on Small Business Advocacy under KRS 11.202(1)(e), and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report or comments shall be filed with the regulations compiler.

(c) An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with KRS 13A.280 to a local government, unless its contact person requested a copy pursuant to KRS 13A.280(8).

(6) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.

(7) The administrative body shall immediately notify the regulations compiler by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and

(b) No written comments have been received by the close of the last day of the public comment period.

(8) (a) 1. Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by letter that the public hearing shall be held.

2. If the public hearing is held but no comments are received during the hearing, the administrative body shall notify the regulations compiler by letter that the public hearing was held and that no comments were received.

(b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by letter that written comments have been received.

(9) If the notifications required by subsections (7) and (8) of this section are not received by the regulations compiler by close of business on the second workday of the calendar month ***following the end of the public comment period***, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(10) The notifications required by subsections (7) and (8) of this section shall be made by letter. The letter may be sent by e-mail if the administrative body uses an electronic signature and letterhead for the e-mailed document.

(11) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (6) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(12) Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

➔Section 6. KRS 13A.280 is amended to read as follows:

(1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and all written comments received during the comment period, including any report filed by the Commission on Small Business Advocacy in accordance with KRS 11.202(1)(e) and 13A.270(4), or by a local government in accordance with KRS 11.202(1)(e) and 13A.270(5).

(2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day of the calendar month following the ***end of the public comment period*** ~~[month of publication]~~ the statement of consideration relating to the administrative regulation and, if applicable, the amended after comments version.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration and, if applicable, the amended after comments version by notifying the regulations compiler in writing on or before 12 noon, eastern time, on the fifteenth day of the calendar month following the ***end of the public comment period*** ~~[month of publication]~~. The administrative body shall file the statement of consideration and, if applicable, the amended after comments version, with the Commission on or before 12 noon, eastern time, no later than the fifteenth day of the second calendar month following the ***end of the public comment period*** ~~[month of publication]~~.

(3) (a) If the administrative regulation is amended as a result of the hearing or written comments received, the administrative body shall forward the items specified in this paragraph to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section:

1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(b) The original and four (4) copies of the amended after comments version, the statement of consideration, and the attachments required by paragraph (a)3. of this subsection shall be stapled in the top left corner. The fifth copy shall not be stapled.

(c) At the same time as, or prior to, filing the paper version, the administrative body shall file an electronic version of the amended after comments version, the statement of consideration, and the required attachments saved as a single document for each amended after comments administrative regulation in an electronic format approved by the regulations compiler.

(4) (a) If the administrative regulation is not amended as a result of the public hearing, or written comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section. The original and four (4) copies of the statement of consideration shall be stapled in the top left corner. The fifth copy of each statement of consideration shall not be stapled.

(b) If the statement of consideration covers multiple administrative regulations, as authorized by subsection (6)(g) of this section, the administrative body shall file with the regulations compiler:

1. The original and five (5) copies of the statement of consideration as required by paragraph (a) of this subsection; and

2. Two (2) additional unstapled copies of the statement of consideration for each additional administrative regulation included in the group of administrative regulations.

(c) At the same time as, or prior to, filing the paper version, the administrative body shall file an electronic version of the statement of consideration saved as a single document for each statement of consideration in an electronic format approved by the regulations compiler.

(5) If comments are received either at the public hearing or during the public comment period, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee following the month in which the statement of consideration is due.

(6) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) The first page of the statement of consideration shall have a two (2) inch top margin;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;

(d) If a hearing has been held or written comments received, the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing, if the hearing was held;

2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the

promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(f) Following the summary and comments, the promulgating administrative body shall:

1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during the comment period; and

2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d); and

(g) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(7) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The changes made to the administrative regulation shall be typed in bold and made in the format prescribed by KRS 13A.222(2). The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(8) If requested, copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments or who specifically request a copy from the administrative body.

➔Section 7. KRS 13A.290 is amended to read as follows:

(1) (a) Except as provided by KRS 158.6471 and 158.6472, the Administrative Regulation Review Subcommittee shall meet monthly to review administrative regulations prior to close of business on the fifteenth day of the calendar month.

(b) The agenda shall:

1. Include each administrative regulation that ***completed the public comment process***~~[was published in the prior month's Administrative Register not including the administrative regulations published in the "As Amended" section]~~;

2. Include each administrative regulation for which a statement of consideration was received on or before 12 noon, eastern time, on the fifteenth day of the prior calendar month;

3. ***Include each effective administrative regulation that the subcommittee has decided to review;***

4. Include each administrative regulation that was deferred from the prior month's meeting of the subcommittee; and

5.~~[4.]~~ Not include an administrative regulation that is deferred, withdrawn, expired, or automatically taken off the agenda under the provisions of this chapter.

(c) Review of an administrative regulation shall include the entire administrative regulation and all attachments filed with the administrative regulation. The review of amendments to existing administrative regulations shall not be limited to only the changes proposed by the promulgating administrative body.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) ***(a)*** A representative of the administrative body ***for an***~~[promulgating the]~~ administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon.

(b) If a representative of the administrative body with authority to amend ***a filed***~~[the]~~ administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(c) If a representative of an administrative body for an effective administrative regulation fails to appear before the subcommittee, the subcommittee may:

1. Defer the administrative regulation to the next regularly scheduled meeting of the subcommittee; or

2. Make a nonbinding determination pursuant to subsections (2), (3), and (4) of Section 2 of this Act.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an ***effective***~~[existing]~~ administrative regulation it has reviewed. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, on the first Wednesday of the following month, or if the first Wednesday is a legal holiday, the next workday of the month, assign ***a filed***~~[the]~~ administrative regulation to:

1. An interim joint committee ***with subject matter***~~[of appropriate]~~ jurisdiction~~[over the subject matter of the administrative regulation]~~; or

2. ***The***~~[During a session of the General Assembly, the House of Representatives and]~~ Senate ***and House*** standing committees ***with subject matter***~~[of appropriate]~~ jurisdiction~~[over the subject matter of the administrative regulation]~~.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the administrative regulation is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the administrative regulation; or

2. That it will not meet to consider the administrative regulation.

(7) ***(a)*** Within ***ninety (90)***~~[thirty (30)]~~ days of the assignment, the subcommittee may hold a public meeting during which the administrative regulation shall be reviewed.

(b) If the ***ninetieth***~~[thirtieth]~~ day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday.

(c) 1. If the administrative regulation is assigned to an interim joint committee and a session of the General Assembly begins during the review period, the assignment shall transfer to the Senate and House standing committees with subject matter jurisdiction.

2. If the administrative regulation is assigned to Senate and House standing committees and a session of the General Assembly adjourns sine die during the review period, the assignment shall transfer to the interim joint committee with subject matter jurisdiction.

3. An administrative regulation may be transferred more than one (1) time under this paragraph. A transfer shall not extend the review period established by this subsection.

(d) ~~[The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3).]~~Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.

(9) (a) ***This subsection shall apply to administrative regulations filed with the Commission.***

(b) A majority of the entire membership of the subcommittee to which an administrative regulation is referred pursuant to subsection (6)(a) of this section shall constitute a quorum for purposes of reviewing administrative regulations.

(c)~~[(b)]~~ In order to amend an administrative regulation pursuant to KRS 13A.320***, defer an administrative regulation pursuant to Section 8 of this Act,*** or~~[to]~~ find an administrative regulation deficient pursuant to KRS 13A.030(2)***,***~~[and]~~ (3), ***and (4),*** the motion to amend***, defer,*** or find deficient shall be approved by a majority of the entire membership of the subcommittee. Additionally, during a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation***, defer an administrative regulation,*** or~~[to]~~ find an administrative regulation deficient~~[pursuant to KRS 13A.030(2) and (3)]~~ by:

1. Meeting separately; or

2. Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting, as well as the majority vote of the entire membership of the standing committees meeting jointly, in order to take action on the administrative regulation.

(10) (a) ***The quorum requirements of subsection (9)(b) of this section shall apply to an effective administrative regulation under review by a subcommittee.***

(b) A motion to find an effective administrative regulation deficient shall be approved by:

1. A majority of the entire membership of the Administrative Regulation Review Subcommittee;

2. A majority of a House or Senate standing committee; or

3. A joint standing committee in accordance with subsection (9)(c)2. of this section.

(11) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) ***or (10)*** of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The subcommittee's findings shall be published in the Administrative Register.

➔Section 8. KRS 13A.300 is amended to read as follows:

(1) The administrative body that promulgated an administrative regulation may request that consideration of the administrative regulation be deferred by the subcommittee.

(2) The deferral of an administrative regulation scheduled for review by the Administrative Regulation Review Subcommittee shall be governed by the following:

(a) A request for deferral ***of an administrative regulation filed with the Commission*** shall be automatically granted if:

1. The administrative body submits a written letter to the regulations compiler; and

2. The letter is received prior to the subcommittee meeting;

(b) ***A request for deferral of an effective administrative regulation may be granted if:***

1. The administrative body submits a written letter to the regulations compiler;

2. The letter is received prior to the subcommittee meeting; and

3. Approved by the co-chairs of the Administrative Regulation Review Subcommittee;

(c) A request for deferral may be granted at the discretion of the subcommittee if the request is made by the administrative body orally at a meeting of the subcommittee;

(d)~~[(c)]~~ The subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation;

(e)~~[(d)]~~ Except as provided in paragraph ***(f)***~~[(e)]~~ of this subsection, an administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee. ***If it is an administrative regulation filed with the Commission,*** the subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in those cases; and

(f)~~[(e)]~~ An administrative regulation shall not be deferred under this subsection more than twelve (12) times.

(3) ***(a)*** The deferral of ***a filed***~~[an]~~ administrative regulation referred to a second committee ***or committees*** pursuant to ***subsections (6) and (7) of Section 7 of this Act***~~[subsection KRS 13A.290(6)(a)]~~ shall be governed by ***this subsection.***~~[the following:]~~

(b)~~[(a)]~~ ~~[Except as provided in paragraphs (c), (d), and (e) of this subsection:]~~

1. A request for deferral shall be automatically granted if:

   a. The administrative body submits a written letter to the regulations compiler; and

   b. The letter is received prior to the committee meeting;

2. A request for deferral may be granted at the discretion of the second committee if the request is made by the administrative body orally at a meeting of the committee; and

3. The committee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation***.***~~[,]~~

(c)~~[(b)]~~ ***1.*** An administrative regulation that is deferred ***may***~~[shall]~~ be placed on ***a subsequent***~~[the]~~ agenda of the ***committee or committees within the review period.***

2. ***Unless***~~[next scheduled meeting of the committee. If the committee does not have a meeting scheduled during the following calendar month,]~~ the deferred administrative regulation ***is placed on a subsequent agenda within the review period, the administrative regulation*** shall take effect ***at the expiration of the review period.***

(4) The deferral of an effective administrative regulation under review by a subcommittee shall be governed by this subsection.

(a) A request for deferral may be granted if:

1. The administrative body submits a written letter to the regulations compiler;

2. The letter is received prior to the subcommittee meeting; and

3. Approved by the presiding chair or chairs.

(b) A request for deferral may be granted at the discretion of the subcommittee if the request is made by the administrative body orally at a meeting of the subcommittee.

(c) The subcommittee may request that consideration of an administrative regulation be deferred by the administrative body. Upon receipt of the request, the administrative body may agree to defer consideration of the administrative regulation.

(d) An administrative regulation that is deferred may be placed on a subsequent agenda of the subcommittee~~[on the last workday of the calendar month following the month in which the administrative regulation is deferred;~~

~~(c) An administrative regulation shall not be deferred from the final scheduled meeting of an interim joint committee to which the administrative regulation was referred pursuant to KRS 13A.290(6)(a)1.;~~

~~(d) An administrative regulation shall not be deferred from the final scheduled meeting of a standing committee to which the administrative regulation was referred pursuant to KRS 13A.290(6)(a)2.; and~~

~~(e) An administrative regulation shall not be deferred from an interim joint committee to House and Senate standing committees or from House and Senate standing committees to an interim joint committee~~].

➔Section 9. KRS 13A.310 is amended to read as follows:

(1) Except as provided in KRS 13A.3102 and 13A.3104, an administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) Except as provided in KRS 13A.3102 and 13A.3104, an administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:

1. Is titled "Repeal of (state number of administrative regulation to be repealed)";

2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND CONFORMITY" paragraph;

3. Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and

4. Meets the filing and formatting requirements of KRS 13A.220.

(b) 1. Except as provided in subparagraph 2. of this paragraph, on the effective date of an administrative regulation that repeals an administrative regulation, determined in accordance with KRS 13A.330 or 13A.331, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

2. If the repealing administrative regulation specifies an effective date that is after the administrative regulation would become effective pursuant to KRS 13A.330 or 13A.331, the specified effective date shall be considered the effective date of the repealing administrative regulation. On the specified effective date, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

(c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.

(4) (a) An ordinary administrative regulation may be withdrawn by the promulgating administrative body at any time prior to its adoption.

(b) An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating administrative body at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to KRS 13A.330~~[or 13A.331]~~ or may be withdrawn by the Governor.

(c) If an ordinary administrative regulation is withdrawn, the administrative body or the Governor shall inform the regulations compiler of the reasons for withdrawal in writing.

(5) Once an ordinary administrative regulation is withdrawn, it shall not be reinstated, except by repromulgation as a totally new matter.

➔Section 10. KRS 13A.3102 is amended to read as follows:

(1) An ordinary administrative regulation with a last effective date on or after ***March 1, 2013***~~[July 1, 2012]~~, shall expire seven (7) years after its last effective date, except as provided by the certification process in KRS 13A.3104.

(2) An ordinary administrative regulation with a last effective date before ***March 1, 2013***~~[July 1, 2012]~~, shall expire on ***March 1, 2020***~~[July 1, 2019]~~, except as provided by the certification process in KRS 13A.3104.

(3) For all administrative regulations that expire under this section or KRS 13A.3104, the regulations compiler shall:

(a) Delete them from the Kentucky Administrative Regulations Service;

(b) Add them to the list of ineffective administrative regulations; and

(c) Beginning on ***September***~~[January]~~ 1, 2020, and at least once every six (6) months thereafter, publish a list of administrative regulations that have expired since the most recent previous list was published under this paragraph.

(4) Within three (3) months of ***the effective date of this Act***~~[June 29, 2017]~~, and at least once every six (6) months thereafter, the regulations compiler shall publish a list of existing administrative regulations and their corresponding last effective dates.

➔Section 11. KRS 13A.3104 is amended to read as follows:

(1) If an administrative body does not want an administrative regulation to expire under KRS 13A.3102, the administrative body shall:

(a) Review the administrative regulation in its entirety for compliance with~~[the requirements of KRS Chapter 13A and]~~ current law governing the subject matter of the administrative regulation;~~[and]~~

(b) Prior to the expiration date, file a certification letter with the regulations compiler stating whether the administrative regulation shall be amended or remain in effect without amendment***; and***

(c) Not be required to consider KRS Chapter 13A drafting and formatting requirements as part of its review.

(2) The certification letter shall be on the administrative body's official letterhead, in the format prescribed by the regulations compiler, and include the following information:

(a) The name of the administrative body;

(b) The number of the administrative regulation;

(c) The title of the administrative regulation;

(d) A statement that:

1. The administrative body shall be amending the administrative regulation; or

2. The administrative regulation shall remain in effect without amendment; and

(e) A brief statement in support of the decision.

(3) (a) If the certification letter was filed pursuant to subsection (1)(b) of this section, stating that the administrative regulation shall be amended, the administrative body shall file an amendment to the administrative regulation in accordance with KRS Chapter 13A within eighteen (18) months of the date the certification letter was filed.

(b) If the amendment was filed in accordance with paragraph (a) of this subsection:

1. The administrative regulation shall not expire if it is continuing through the administrative regulations process; or

2. The administrative regulation shall expire on the date the amendment is withdrawn or otherwise ceases going through the administrative regulations process.

(c) Once the amendment is effective, the regulations compiler shall update the last effective date for that administrative regulation to reflect the amendment's effective date.

(4) If the certification letter was filed pursuant to subsection (1)(b) of this section, stating that the administrative regulation shall remain in effect without amendment, the regulations compiler shall:

(a) Update the administrative regulation's history line to state that a certification letter was received; and

(b) Change the last effective date of the administrative regulation to the date the certification letter was received.

(5) If filed by the deadline established in KRS 13A.050(3), the regulations compiler shall publish in the Administrative Register of Kentucky each certification letter received:

(a) In summary format; or

(b) In its entirety.

➔Section 12. KRS 13A.315 is amended to read as follows:

(1) An administrative regulation shall expire and shall not be reviewed by a legislative subcommittee if:

(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;

(b) The statement of consideration and, if applicable, the amended after comments version are not filed on or before a deadline specified by this chapter;

(c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, the public hearing and public comment period, or the statement of consideration; or

(d) The administrative regulation is deferred pursuant to KRS 13A.300(2) more than twelve (12) times.

(2) (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately if, pursuant to KRS 13A.330~~[or 13A.331]~~, the Governor has determined that it shall be withdrawn.

(b) The Governor shall notify the regulations compiler in writing and by telephone that he or she has determined that the administrative regulation found deficient shall be withdrawn.

(c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to ***Section 13 of this Act***~~[KRS (13A.330(2)(b) or 13A.331(2)(b), whichever is applicable)]~~, I have determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The administrative regulation, (administrative regulation number and title), is hereby withdrawn."

(d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

➔Section 13. KRS 13A.330 is amended to read as follows:

~~[The provisions of this section shall apply to administrative regulations that are assigned pursuant to KRS 13A.290(6)(a)1.]~~

(1) ***(a)***~~[An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:~~

~~(a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:~~

~~1. The administrative regulation is on the agenda of the subcommittee meeting;~~

~~2. A quorum of the subcommittee is present; and~~

~~3. The subcommittee:~~

~~a. Considers the administrative regulation; or~~

~~b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or~~

~~(b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.~~

~~(2)]~~ If ***a filed***~~[an]~~ administrative regulation has been found deficient***, the***~~[by a legislative subcommittee, the legislative]~~ subcommittee shall transmit to the Governor ***and the regulations compiler***:

1.~~[(a)]~~ A copy of ***the***~~[its]~~ finding of deficiency and other ***relevant*** findings, recommendations, or comments~~[it deems appropriate]~~; and

2.~~[(b)]~~ A request that the Governor determine whether the administrative regulation shall:

a.~~[1.]~~ Be withdrawn;

b.~~[2.]~~ Be~~[withdrawn and]~~ amended ***at a subcommittee meeting pursuant to KRS 13A.320*** to conform to the finding of deficiency; or

c.~~[3.]~~ Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

~~[(3) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.]~~

(b) ~~[(4)]~~ The Governor shall transmit his ***or her*** determination to the Commission and the regulations compiler.

(c) ~~[(5)]~~ ***A filed*** ~~[An]~~ administrative regulation that has been found deficient~~[by a legislative subcommittee]~~ shall be considered as adopted and become effective after:

1. ***a.*** ~~[(a) 1.]~~ The ***review period established in this chapter has been completed*** ~~[subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:~~

~~a. Considered the administrative regulation;~~

~~b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or~~

~~c. Failed to meet within thirty (30) days of such assignment]~~; and

b. ~~[2.]~~ The regulations compiler has received the Governor's determination that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or

2. ~~[(b)]~~ The~~[legislative]~~ subcommittee that found the ***filed*** administrative regulation deficient subsequently determines that ***it*** ~~[the administrative regulation]~~ is not deficient ***in accordance with Section 15 of this Act***, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

(2) If an effective administrative regulation has been found deficient by a subcommittee, the subcommittee shall transmit to the Governor a copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate.

➔Section 14. KRS 13A.331 is amended to read as follows:

A filed ~~[The provisions of this section shall apply to administrative regulations that are assigned pursuant to KRS 13A.290(6)(a)2.~~

~~(1) An]~~ administrative regulation that has not been ***deferred or*** found deficient~~[by both standing committees]~~ shall be considered as adopted and shall become effective:

(1) ~~[(a)]~~ Upon adjournment ***of a meeting of an interim joint committee if:***

(a) The administrative regulation was on the meeting agenda; and

(b) A quorum was present;

(2) Upon adjournment of a meeting of a joint standing committee if:

(a) The administrative regulation was on the meeting agenda; and

(b) A quorum was present;

(3) Upon adjournment of a meeting of a House or Senate standing committee if:

(a) The administrative regulation was on its meeting agenda;

(b) A quorum was present; and

(c) The administrative regulation has previously been on a meeting agenda of the other standing committee when a quorum was present ~~[on the day the second standing committee meets to consider the administrative regulation pursuant to KRS 13A.290 if:~~

~~1. The administrative regulation is on the agenda of the standing committee meeting;~~

~~2. A quorum of the standing committee is present;~~

~~3. The standing committee:~~

~~a. Considers the administrative regulation; or~~

~~b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; and~~

~~4. Pursuant to KRS 13A.290(9), the decision of the standing committee to amend the administrative regulation is the same as the decision of the corresponding standing committee of the other chamber to amend the administrative regulation;~~

~~(b) Upon adjournment on the day the standing committee meeting jointly meets to consider the administrative regulation pursuant to KRS 13A.290 if:~~

~~1. The administrative regulation is on the agenda of the joint standing committee meeting;~~

~~2. A quorum of the joint standing committee is present;~~

~~3. The joint standing committee meeting:~~

~~a. Considers the administrative regulation; or~~

~~b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation~~]; or

(4)~~[(c)]~~ ***At the expiration of the review period established in subsection (7) of Section 7 of this Act,*** if ***within the review period*** a ***subcommittee has failed***~~[standing committee fails]~~ to meet ***or failed to***~~[within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290, or does not]~~ place ***a filed***~~[the]~~ administrative regulation on ***a meeting***~~[the]~~ agenda~~[of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period]~~.

~~[(2) If an administrative regulation has been found deficient by both standing committees, or by the standing committees meeting jointly, the standing committees, or the standing committees meeting jointly shall transmit to the Governor:~~

~~(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and~~

~~(b) A request that the Governor determine whether the administrative regulation shall:~~

~~1. Be withdrawn;~~

~~2. Be withdrawn and amended to conform to the finding of deficiency; or~~

~~3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.~~

~~(3) If an administrative regulation has been found deficient by the standing committees or by the standing committees meeting jointly, the standing committees or standing committees meeting jointly shall transmit copies of its transmittal to the Governor to the regulations compiler.~~

~~(4) The Governor shall transmit his determination to the Commission and the regulations compiler.~~

~~(5) An administrative regulation that has been found deficient by the Administrative Regulation Review Subcommittee, the standing committees or by the standing committees meeting jointly shall be considered as adopted and become effective after:~~

~~(a) 1. The standing committees of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290 has:~~

~~a. Considered the administrative regulation;~~

~~b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or~~

~~c. Failed to meet within thirty (30) days of such assignment; and~~

~~2. The regulations compiler has received the Governor's determination that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or~~

~~(b) The subcommittee, standing committees, or standing committees meeting jointly that found the administrative regulation deficient subsequently determines that the administrative regulation is not~~

~~deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.]~~

➔Section 15. KRS 13A.335 is amended to read as follows:

(1) ***(a)*** ***A filed*** ~~[An]~~ administrative regulation found deficient by a subcommittee shall not be considered deficient if:

1. ~~[(a)]~~ A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;

2. ~~[(b)]~~ The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects the deficiency; and

3. ~~[(c)]~~ Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.

(b) ~~[(2)]~~ ***A filed*** ~~[An]~~ administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not be considered deficient if:

1. ~~[(a)]~~ The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;

2. ~~[(b)]~~ That subcommittee does not determine that the administrative regulation is deficient for any other reason; and

3. ~~[(c)]~~ The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not be considered deficient.

(c) ~~[(3)]~~ ***A filed*** ~~[An]~~ administrative regulation found deficient by a subcommittee ***with subject matter jurisdiction*** shall not be considered deficient if the subcommittee:

1. ~~[(a)]~~ Reconsiders the administrative regulation and its finding of deficiency; and

2. ~~[(b)]~~ Approves a motion that the administrative regulation is not deficient.

(d) ~~[(4)(a)]~~ If an ***amendment to an effective*** ~~[existing]~~ administrative regulation ***is going through the KRS Chapter 13A promulgation process and is*** ~~[has been amended and]~~ found deficient by a subcommittee, ***the administrative regulation*** ~~[it]~~ shall not be considered deficient if the:

1. Administrative regulation was found deficient due to the amendment;

2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and

3. Regulations compiler has not received the Governor's determination pursuant to KRS 13A.330~~[or 13A.331]~~.

(2) If an effective administrative regulation is found deficient by a subcommittee, the administrative regulation shall not be considered deficient if the subcommittee:

(a) Reconsiders the administrative regulation and its finding of deficiency; and

(b) Approves a motion that the administrative regulation is not deficient.

(3) ***(a)*** ~~[(b)]~~ If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation was found deficient by the [name of subcommittee] on [date]." This notice shall be the last section of the administrative regulation.

(b) ~~[(c)]~~ If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph ***(a)*** ~~[(b)]~~ of this subsection.

(c) ~~[(d)]~~ If an administrative regulation that has been found deficient by a subcommittee has subsequently been determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph ***(a)*** ~~[(b)]~~ of this subsection.

➔Section 16. KRS 158.6471 is amended to read as follows:

(1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register" or within sixty (60) days of the receipt of a statement of consideration, the Education Assessment and Accountability Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the subcommittee meeting shall be given in The Administrative Register.

(4) A representative of the Department of Education shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the Department of Education is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Legislative Research Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.

(6) (a) After review by the subcommittee, the Commission shall at its next regularly scheduled meeting assign the matter as appropriate to the Interim Joint Committee on Education, the Senate standing Education Committee, the House standing Education Committee, or the Senate and the House standing committees meeting jointly.

(b) Upon notification of the assignment by the Commission, the Education Committee shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the matter; or

2. That it will not meet to consider the matter.

(7) Within thirty (30) days of the assignment, the Education Committee, when it plans to consider an administrative regulation, shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The committee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2)~~,[and]~~ (3)***, and (4)***. Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) The Department of Education shall comply with subsection (4) of this section.

(9) The Education Committee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.

(10) (a) Upon adjournment of the meeting at which the Education Committee has considered an administrative regulation pursuant to subsection (7) of this section, the committee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy shall be sent to the Department of Education. The committee's findings shall be published in The Administrative Register.

Vetoed 3/26/2019; Veto overridden 3/28/2019.

CHAPTER 193

(HB 268)

AN ACT amending the 2018-2020 executive branch biennial budget, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; A. General Government, 11. Local Government Economic Assistance Fund, at page 1284, as amended by 2018 Kentucky Acts Chapter 203, is further amended to read as follows:

11. LOCAL GOVERNMENT ECONOMIC ASSISTANCE FUND

	2018-19	**2019-20**
General Fund	26,257,600	22,825,700

(1) Additional Coal Severance Transfer: Notwithstanding KRS 42.450 to 42.495, an additional amount equal to $3,686,100 in fiscal year 2018-2019 and $642,900 in fiscal year 2019-2020 shall be transferred from the Local Government Economic Development Fund to the Local Government Economic Assistance Fund established by KRS 42.450 to be allocated in accordance with KRS 42.470(1).

(2) Jefferson County Mineral Severance: Notwithstanding KRS 42.450 to 42.495, all funds distributed to Jefferson County in accordance with KRS 42.470(2)(a) shall be ***distributed by the Department for Local Government directly to the Waterfront Botanical Gardens in each fiscal year***~~[used by the Jefferson County Fiscal Court for the Waterfront Botanical Gardens]~~.

(3) Coal Haul Road System: Notwithstanding KRS 42.455(2) and (7), no funds appropriated to the Local Government Economic Assistance Fund are required to be spent on the coal haul road system.

(4) Excess Coal Severance Tax Receipts: Notwithstanding KRS 42.450 to 42.495, 100 percent of the severance and processing taxes on coal collected annually in excess of the official estimate presented by the Office of State Budget Director shall be transferred in each fiscal year from the General Fund to the Local Government Economic Assistance Fund on a quarterly basis and appropriated for allocation in accordance with KRS 42.470(1).

➔Section 2. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; A. General Government, 13. Area Development Fund, at page 1285, is amended to read as follows:

13. AREA DEVELOPMENT FUND

	~~**[2018-19]**~~	~~**[2019-20]**~~

(1) Area Development Fund: Notwithstanding KRS 42.345 to 42.370, and 48.185, or any statute to the contrary, no funding is provided for the Area Development Fund.

(2) Area Development District Flexibility: Notwithstanding KRS 42.350(2) and provided that sufficient funds are maintained in the Joint Funding Agreement Program to meet the match requirements for the Economic Development Administration grants, Community Development Block Grants, Appalachian Regional Commission grants, or any federal program where the Joint Funding Agreement funds are utilized to meet nonfederal match requirements, an area development district with authorization from its Board of Directors may request approval to transfer funding between the Area Development Fund and the Joint Funding Agreement Program from the Commissioner of the Department for Local Government.~~[Joint Funding Agreement grants from the Community Economic Development Block Grant Program and the Appalachian Regional Commission shall be matched on a dollar for dollar basis.]~~

➔Section 3. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; B. Economic Development, 1. Economic Development, at page 1295, as amended by 2018 Kentucky Acts Chapter 203, is further amended to read as follows:

1. ECONOMIC DEVELOPMENT

	2018-19	**2019-20**
General Fund	25,496,800***26,666,800***~~[25,606,300]~~	
Restricted Funds	2,888,800	2,950,000
Federal Funds	397,500	-0-
TOTAL	28,783,100***29,616,800***~~[28,556,300]~~	

(1) Funding for Commercialization and Innovation: Notwithstanding KRS 154.12-278, interest income earned on the balances in the High-Tech Construction/Investment Pool and loan repayments received by the High-

Tech Construction/Investment Pool shall be used to support the Office of Entrepreneurship and are appropriated in addition to amounts appropriated above.

(2) Lapse and Carry Forward of General Fund Appropriation Balance for Bluegrass State Skills Corporation: Notwithstanding KRS 45.229, the General Fund appropriation balance for Bluegrass State Skills Corporation training grants for fiscal year 2017-2018 and fiscal year 2018-2019 shall not lapse and shall carry forward. The amount available to the Corporation for disbursement in each fiscal year shall be limited to the unexpended training grant allotment balance at the end of fiscal year 2016-2017 combined with the additional training grant allotment amounts for each fiscal year of the 2018-2020 biennium, less any disbursements. If the required disbursements exceed the Bluegrass State Skills Corporation training grants allotment balance, notwithstanding KRS 154.12-278, Restricted Funds may be expended for training grants.

(3) Science and Technology Program: Notwithstanding KRS 164.6017, 164.6021(1), 164.6023(8), 164.6029(1), 164.6031(3), 164.6037(1), and 164.6039(3) and (7), the Cabinet for Economic Development shall have the authority to carry out the provisions of KRS 164.6019 to 164.6041. Included in the above General Fund appropriation is $4,792,800 in each fiscal year to support the Science and Technology Program.

(4) Carry Forward of General Fund Appropriation Balance: Notwithstanding KRS 45.229, any unexpended balance from the fiscal year 2017-2018 General Fund appropriation in the Council on Postsecondary Education, Science and Technology Program, shall not lapse and shall be appropriated to the Cabinet for Economic Development. The General Fund appropriation in fiscal year 2018-2019 to the Cabinet for Economic Development, Science and Technology Program, shall not lapse and shall carry forward in the Cabinet for Economic Development.

(5) Debt Service: Included in the above General Fund appropriation is $1,060,500 in fiscal year 2019-2020 for new debt service to support bonds as set forth in Part II, Capital Projects Budget, of this Act.

➔Section 4. 2018 Kentucky Acts Chapter 169, Part II, Capital Projects Budget; B. Economic Development, at page 1333, is amended to read as follows:

B. ECONOMIC DEVELOPMENT CABINET

(1) Economic Development Bond Issues: Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

(2) Use of New Economy Funds: Notwithstanding KRS 154.12-100, 154.12-278(4) and (5), and 154.20-035, the Secretary of the Cabinet for Economic Development may use funds appropriated in the Economic Development Bond Program, High-Tech Construction/Investment Pool, and the Kentucky Economic Development Finance Authority Loan Pool interchangeably for economic development projects.

(3) Economic Development Projects: The Cabinet for Economic Development may use unobligated or uncommitted bonds that have been previously authorized in 2014 Ky. Acts ch. 117, Pt. II, B., 1. and 2016 Ky. Acts ch. 149, Pt. II, B., 1. for economic development projects in the 2018-2020 fiscal biennium.

Budget Unit	***2018-19***	***2019-20***
1. ECONOMIC DEVELOPMENT		
001. Economic Development Bond Program - 2020		
Bond Funds	***-0-***	***25,000,000***

➔Section 5. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; C. Department of Education, 2. Operations and Support Services, at pages 1298 to 1299, is amended to read as follows:

2. OPERATIONS AND SUPPORT SERVICES

	2018-19	**2019-20**
General Fund	56,243,700	56,326,300
Restricted Funds	7,401,500	7,401,500
Federal Funds	389,132,300	389,178,100

TOTAL	452,777,500	452,905,900

(1) Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set those employees' compensation comparable to the competitive market.

(2) Blind/Deaf Residential Travel Program: Included in the above General Fund appropriation is $492,300 in each fiscal year for the Blind/Deaf Residential Travel Program.

(3) School Food Services: Included in the above General Fund appropriation is $3,555,900 in each fiscal year for the School Food Services Program.

(4) Review of the Classification of Primary and Secondary School Buildings: Included in the above General Fund appropriation is $600,000 in each fiscal year to implement KRS 157.420(9) and (10). Notwithstanding KRS 45.229, any portion of the $600,000 that has not been expended by the end of fiscal year 2018-2019 shall not lapse and shall carry forward into fiscal year 2019-2020. Notwithstanding KRS 157.420(9) and (10), only schools classified as A1, A2, A3, A4, A5, A6, C2, and D1 shall be included in the evaluation process. Notwithstanding KRS 157.420(9) and (10), the Department of Education may limit the school buildings included in the evaluation process based on the time elapsed since the building's construction or last major renovation as defined in 702 KAR 4:160. The Department of Education shall provide an updated list of school buildings evaluated by the process pursuant to KRS 157.420(9) and (10) to the Legislative Research Commission by October 1, 2019.

(5) Advanced Placement and International Baccalaureate Exams: Notwithstanding KRS 160.348(3), included in the above General Fund appropriation is $1,000,000 in each fiscal year to pay the cost of Advanced Placement and International Baccalaureate examinations for those students who meet the eligibility requirements for free or reduced-price meals.

(6) School Technology~~[in Coal Counties]~~**:** Included in the above General Fund appropriation is $1,750,000 in each fiscal year for ***the Kentucky Dataseam Initiative for the purposes of enhancing education technology in local school districts. Notwithstanding KRS 42.726 to 42.730, the Secretary of the Finance and Administration Cabinet shall provide exclusive approval and oversight of all contracts related to the program***~~[the purpose of enhancing education technology in local school districts within coal-producing counties. The Commissioner of Education shall use the appropriation in this subsection to continue the Coal County Computing Program in conjunction with the Cabinet for Economic Development through its Department of Commercialization and Innovation]~~.

➔Section 6. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; E. Energy and Environment Cabinet, 3. Natural Resources, at page 1304, is amended to read as follows:

3. NATURAL RESOURCES

	2018-19	**2019-20**
General Fund (Tobacco)	3,757,300	3,757,300
General Fund	37,228,700	37,702,200
Restricted Funds	14,698,100	14,661,700
Federal Funds	61,424,900	61,846,200
TOTAL	117,109,000	117,967,400

(1) Emergency Forest Fire Suppression: Not less than $2,500,000 of the above General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any portion of the $2,500,000 not expended for emergency forest fire suppression shall lapse to the General Fund at the end of each fiscal year. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of $2,500,000 each fiscal year. Fire suppression costs in excess of $2,500,000 annually shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) Environmental Stewardship Program: Included in the above General Fund (Tobacco) appropriation is $2,500,000 in each fiscal year for the Environmental Stewardship Program.

(3) Conservation District Local Aid: Included in the above General Fund (Tobacco) appropriation is $907,300 in each fiscal year for the Division of Conservation to provide direct aid to local conservation districts.

(4) Match for Conservation Program: Included in the above General Fund (Tobacco) appropriation is $350,000 in each fiscal year to provide the nonfederal match for a federal conservation program.

(5) Restricted Funds Uses: Notwithstanding KRS 262.640, funds may be expended for the purposes detailed in KRS 353.562.

➔Section 7. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; H. Justice and Public Safety Cabinet, 2. Criminal Justice Training, at pages 1315 to 1316, is amended to read as follows:

2. CRIMINAL JUSTICE TRAINING

	2018-19	**2019-20**
Restricted Funds	90,330,600	82,834,500
Federal Funds	120,200	120,200
TOTAL	90,450,800	82,954,700

(1) Kentucky Law Enforcement Foundation Program Fund: Included in the above Restricted Funds appropriation is $88,818,100 in fiscal year 2018-2019 and $80,366,500 in fiscal year 2019-2020 for the Kentucky Law Enforcement Foundation Program Fund.

(2) Training Incentive Payments: Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $4,000 in each fiscal year for each participant for training incentive payments.

(3) Training Incentive Stipends Expansion to Other Peace Officers:

(a) Notwithstanding KRS 15.410, 15.420(2), 15.460(1), 15.470(2) and (4), and any statute to the contrary, included in the above Restricted Funds appropriation is sufficient funding for a $4,000 annual training incentive stipend for Kentucky state troopers, Kentucky State Police arson investigators, Kentucky State Police hazardous devices investigators, Kentucky State Police legislative security specialists, Kentucky vehicle enforcement officers, Horse Park mounted patrol officers, Parks rangers, Agriculture investigators, Charitable Gaming investigators, Alcoholic Beverage Control investigators, Insurance Fraud investigators, and Attorney General investigators from the Kentucky Law Enforcement Foundation Program Fund. Employers of these officers shall be reimbursed for the Federal Insurance Contributions Act tax and retirement plan contributions employers are required to make to defined benefit pension plans.

(b) Notwithstanding KRS 15.410, 15.420(2), 15.460(1), 15.470(2) and (4), and any statute to the contrary, included in the above Restricted Funds appropriation is sufficient funding for a $4,000 annual training incentive stipend for School Security officers employed by an eligible local unit of government, plus an amount equal to the required employer's contribution on the supplement to the defined benefit plan to which the officer belongs.

(c) Notwithstanding any statute to the contrary, employers of eligible local units of government shall receive an administrative expense reimbursement in an amount equal to 7.65 percent of the total annual supplement received greater than $3,100 for each qualified local officer. Total reimbursements to all employers of this subsection shall not exceed $525,000 in each fiscal year. If there are insufficient funds to provide for the full provision of the administrative fee, then the amount shall be distributed pro rata to each eligible local unit of government so that each receives the same percentage attributable to its total receipts of the cash salary supplement.

(4) Support for Statewide Law Enforcement Purposes: (a) Notwithstanding KRS 15.470 and any other statute to the contrary, included in the above Restricted Funds appropriation is $1,442,500 in each fiscal year to be transferred to the Department of Kentucky State Police for the laboratory updates capital project set forth in Part II, H., 3., 002. of this Act.

(b) Notwithstanding KRS 15.470 and any other statute to the contrary, included in the above Restricted Funds appropriation is $3,305,800 in fiscal year 2018-2019 and $872,800 in fiscal year 2019-2020 to be transferred to the Department of Kentucky State Police for the sole purpose of purchasing marked and unmarked vehicles.

(c) Notwithstanding KRS 15.470 and any other statute to the contrary, included in the above Restricted Funds appropriation is $4,329,500 in fiscal year 2018-2019 to be transferred to the Department of Kentucky State Police for the purposes of paying pension spiking costs and sick leave service credit.

(d) Any unexpended balance from the appropriations set forth in paragraphs (a), (b), and (c) of this subsection shall lapse to the Kentucky Law Enforcement Foundation Program Fund.

(5) Criminal Justice Council: Pursuant to KRS 15.410 to 15.515, the Department of Criminal Justice Training shall not transfer funds from the Kentucky Law Enforcement Foundation Program Fund to support the Criminal Justice Council.

(6) Administrative Costs: Notwithstanding KRS 15.470 and any other statute to the contrary, the Department of Criminal Justice Training is authorized to transfer Restricted Funds to the Department of Justice Administration to support the Criminal Justice Training attorney positions in each fiscal year of the biennium.

(7) Two-Way Radio System Replacement, Phase I Capital Project: Notwithstanding KRS 237.110 to 237.142, included in the above Restricted Funds appropriation is $1,012,700 in fiscal year 2019-2020 to be transferred to the Department of Kentucky State Police for debt service to support bonds authorized for the Two-Way Radio System Replacement, Phase I capital project set forth in Part II, Capital Projects Budget, of this Act.

➔Section 8. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; H. Justice and Public Safety Cabinet, 4. State Police, at pages 1316 to 1317, is amended to read as follows:

4. STATE POLICE

	2018-19	**2019-20**
General Fund	125,210,700	121,147,800
Restricted Funds	38,458,400***32,370,500***~~[31,357,800]~~	
Federal Funds	11,097,100	11,097,100
Road Fund	105,278,800	106,762,100
TOTAL	280,045,000 ***271,377,500***~~[270,364,800]~~	

(1) Call to Extraordinary Duty: There is appropriated from the General Fund to the Department of Kentucky State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) State Police and Vehicle Enforcement Personnel Training Incentive: Included in the above Restricted Funds appropriation is sufficient funding for a $4,000 annual training incentive stipend for state troopers, arson investigators, hazardous devices investigators, legislative security specialists, and vehicle enforcement officers from the Kentucky Law Enforcement Foundation Program Fund.

(3) Restricted Funds Uses: Notwithstanding KRS 24A.179, 42.320(2)(h), 65.7631, 189A.050(3)(a), 237.110(18), and 281A.160(2)(b), funds are included in the above Restricted Funds appropriation to maintain the operations and administration of the Kentucky State Police.

(4) Dispatcher Training Incentive: Included in the above General Fund appropriation is sufficient funding for a $3,100 annual training incentive stipend for dispatchers.

(5) Debt Service: Included in the above General Fund appropriation is $1,125,300 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(6) Transfers for Statewide Law Enforcement Purposes: (a) Included in the above Restricted Funds appropriation is $1,442,500 in each fiscal year for the laboratory updates capital project set forth in Part II, H., 3., 002. of this Act.

(b) Included in the above Restricted Funds appropriation is $3,305,800 in fiscal year 2018-2019 and $872,800 in fiscal year 2019-2020 for the sole purpose of purchasing marked and unmarked vehicles.

(c) Included in the above Restricted Funds appropriation is $4,329,500 in fiscal year 2018-2019 for the purposes of paying pension spiking costs and sick leave service credit.

(d) Any unexpended balance from the appropriations set forth in paragraphs (a), (b), and (c) of this subsection shall lapse to the Kentucky Law Enforcement Foundation Program Fund.

(7) Forensic Laboratory Technician Salary Increases: Included in the above General Fund appropriation is $1,000,000 in each fiscal year for salary increases for forensic laboratory technicians.

(8) Two-Way Radio System Replacement, Phase I Capital Project:

(a) Notwithstanding KRS 237.110 to 237.142, included in the above Restricted Funds appropriation is $1,012,700 in fiscal year 2019-2020 to be transferred from the Department of Criminal Justice Training for debt service to support bonds authorized for the Two-Way Radio System Replacement, Phase I capital project set forth in Part II, Capital Projects Budget, of this Act.

(b) Pursuant to KRS 150.021(3), the Finance and Administration Cabinet shall provide $112,500 in Restricted Funds support for debt service in fiscal year 2019-2020 to support bonds authorized for the Two-Way Radio System Replacement, Phase I capital project set forth in Part II, Capital Projects Budget, of this Act.

➔Section 9. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; K. Postsecondary Education, 1. Council on Postsecondary Education, at pages 1322 to 1323, as amended by 2018 Kentucky Acts Chapter 203, is further amended to read as follows:

1. COUNCIL ON POSTSECONDARY EDUCATION

	2018-19	**2019-20**
General Fund (Tobacco)	7,000,000	6,686,500
General Fund	35,637,500	35,703,700
Restricted Funds	5,368,000	5,273,300
Federal Funds	12,772,000	12,322,000
TOTAL	60,777,500	59,985,500

(1) Carry Forward of General Fund Appropriation Balance: Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2017-2018 and fiscal year 2018-2019 to the Adult Education and Literacy Program shall not lapse and shall carry forward. Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2017-2018 to the Science and Technology Program shall not lapse and shall carry forward and be appropriated to the Cabinet for Economic Development.

(2) Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(3) Program Elimination: Notwithstanding KRS 164.028 to 164.0282, no General Fund is provided for Professional Education Preparation.

(4) Optometry Contract Spaces: (a)Included in the above General Fund appropriation is $776,000 in each fiscal year to fund 44 optometry slots. Of those slots, the Council on Postsecondary Education shall contract ten slots for fiscal year 2018-2019 and 15 slots for fiscal year 2019-2020 with the Kentucky College of Optometry for the same supplement available through the Southern Regional Education Board.

(b) No dues shall be paid to the Southern Regional Education Board from the appropriation included in paragraph (a) of this subsection.

(5) Postsecondary Education Debt: Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has issued or caused to be issued debt obligations through a not-for-profit corporation or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to meet debt obligations issued by a university pursuant to this subsection shall be subject to interception of state-appropriated funds pursuant to KRS 164A.608.

(6) Adult Education: Included in the above General Fund appropriation are funds in each fiscal year for the Kentucky Adult Education Funding Program.

(7) Veterinary Medicine Contract Spaces: (a) Included in the above General Fund appropriation is $5,084,000 in each fiscal year to fund 164 veterinary slots.

(b) No dues shall be paid to the Southern Regional Education Board from the appropriation included in paragraph (a) of this subsection.

(8) Ovarian Cancer Screening: Notwithstanding KRS 164.476, included in the above General Fund appropriation is $500,000 in each fiscal year for the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

(9) Cancer Research and Screening: Included in the above General Fund (Tobacco) appropriation is $7,000,000 in fiscal year 2018-2019 and $6,686,500 in fiscal year 2019-2020 for cancer research and screening. The appropriation each fiscal year shall be equally shared between the University of Louisville and the University of Kentucky.

(10) Veterinary Contract Spaces Working Group: Having determined that there is a need to study the effects of both the establishment of a forgivable loan program for the students of the Veterinary Contract Spaces Program and the projected return of large animal veterinary graduates to practice in Kentucky, the Kentucky Council on Postsecondary Education is hereby directed to establish a working group composed of the following:

(a) The President of the Council on Postsecondary Education or his representative;

(b) The Speaker of the House or his representative;

(c) A minority member of the House appointed by the Speaker;

(d) The President of the Senate or his representative;

(e) A minority member of the Senate appointed by the President;

(f) The Kentucky Commissioner of Agriculture or his representative;

(g) The Executive Director of the Governor's Office of Agricultural Policy or his representative;

(h) A representative of the Kentucky Cattlemen's Association;

(i) A representative of the Kentucky Pork Producers;

(j) A representative of the Kentucky Poultry Federation;

(k) A representative of the Kentucky Veterinary Medical Association;

(l) A representative of the Kentucky Farm Bureau; and

(m) A representative of the Kentucky Thoroughbred Owners and Breeders (KTOB).

The working group shall report to the Interim Joint Committee on Appropriations and Revenue no later than December 1, 2018.

(11) Southern Regional Education Board Dues: Included in the above General Fund appropriation is $210,000 in each fiscal year for Southern Regional Education Board dues.

(12) Optometry Contract Spaces Working Group: Having determined that there is a need to study the effects of both the establishment of a forgivable loan program for the students of the Optometry Contract Spaces Program and the projected return of Optometry graduates to practice in Kentucky, the Kentucky Council on Postsecondary Education is hereby directed to establish a working group composed of the following:

(a) The President of the Council on Postsecondary Education or his representative;

(b) The Speaker of the House or his representative;

(c) A minority member of the House appointed by the Speaker;

(d) The President of the Senate or his representative;

(e) A minority member of the Senate appointed by the President;

(f) The Dean of the Kentucky College of Optometry at the University of Pikeville or his representative; and

(g) The President of the Kentucky Optometric Association or his representative.

The working group shall report to the Interim Joint Committee on Appropriations and Revenue no later than December 1, 2018.

(13) Disposition of Postsecondary Institution Property: Notwithstanding KRS 45.777, a postsecondary institution's governing board may elect to sell or dispose of real property or major items of equipment and proceeds from the sale shall be designated to the funding sources, on a proportionate basis, used for acquisition of

the equipment or property to be sold.***The language of this subsection reflects the effect of line-item veto 2, which was issued March 26, 2019, and was not considered for override on March 28, 2019.***

(14) Postsecondary Institution Property Sales: The Council on Postsecondary Education shall provide a recommendation to establish a process for the sale or disposal of all personal property, real property, or major items of equipment owned by postsecondary institutions to the Interim Joint Committee on Appropriations and Revenue by December 1, 2019.

➔Section 10. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; K. Postsecondary Education, 4. Kentucky State University, at page 1324, is amended to read as follows:

4. KENTUCKY STATE UNIVERSITY

	2018-19	2019-20
General Fund	***25,749,000***~~[25,459,000]~~	25,259,100
Restricted Funds	19,220,000	19,220,000
Federal Funds	19,000,000	19,000,000
TOTAL	***63,969,000***~~[63,679,000]~~	63,479,100

(1) Land Grant Match: Included in the above General Fund appropriation is ***$3,990,000 in fiscal year 2018-2019 and*** $3,700,000 in ~~[each]~~fiscal year ***2019-2020*** to fund the state match payments required of land-grant universities under federal law.

➔Section 11. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; M. Tourism, Arts and Heritage Cabinet, 1. Secretary, at page 1328, as amended by 2018 Kentucky Acts Chapter 203, is further amended to read as follows:

1. SECRETARY

	2018-19	2019-20
General Fund	3,158,700	3,213,700
Restricted Funds	14,703,200	14,703,200
TOTAL	17,861,900	17,916,900

(1) Tourism Grants: Included in the above Restricted Funds appropriation is $350,000 in each fiscal year to support the Local ***Tourism***~~[Theater]~~ Grant Program. The Kentucky Department of Tourism shall develop and administer the Local ***Tourism***~~[Theater]~~ Grant Program for the purpose of supporting local theater programs ***and museums*** which complement the statewide tourism marketing efforts. The department shall set ~~[program]~~guidelines, timelines, funding cycles, reporting requirements, reimbursement procedures, and all other logistics and programmatic details necessary to manage and effectuate the grant program. The Local ***Tourism***~~[Theater]~~ Grant Program shall be open to all eligible local theater programs ***and museums*** in Kentucky, and the department shall provide grant program information on the department's industry Web site page and send notifications for applying for funding through the local tourism offices or the designated tourism representative from each county and/or city which is named and submitted to the Kentucky Department of Tourism by the applicable county judge/executive or mayor. Any funds that are not fully expended through the corresponding annual grant cycle by approved recipients shall lapse to the credit of the Tourism, Meeting, and Convention Marketing Fund.

➔Section 12. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; M. Tourism, Arts and Heritage Cabinet, 4. Parks, at page 1329, is amended to read as follows:

4. PARKS

	2017-18	2018-19	2019-20
General Fund	8,831,600	46,549,700***50,232,500***~~[48,111,500]~~	
Restricted Funds	-0-	51,840,600	51,840,600
TOTAL	8,831,600	98,390,300***102,073,100***~~[99,952,100]~~	

(1) Park Capital Maintenance and Renovation Fund: Notwithstanding KRS 148.810, no transfer to the Park Capital Maintenance and Renovation Fund shall be made.

(2) Debt Service: Included in the above General Fund appropriation is $424,500 in fiscal year 2018-2019 and ***$3,394,500*** ~~[$1,273,500]~~ in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) Capitol Annex Cafeteria: Included in the above General Fund appropriation is $234,400 in each fiscal year to support the Capitol Annex cafeteria operated by the Department of Parks.

➔Section 13. 2018 Kentucky Acts Chapter 169, Part II, Capital Projects Budget; L. Tourism, Arts and Heritage Cabinet, 1. Parks, at page 1364, is amended to read as follows:

1. PARKS

001.	Maintenance Pool - 2018-2020		
	Bond Funds	10,000,000	10,000,000
002.	Construct Lodge and/or Resort Facilities at Yatesville Lake		
(1)	**Authorization:** The above authorization is approved pursuant to KRS 45A.077.		
003.	Construct or Renovate Lodge Facilities at Natural Bridge		
(1)	**Authorization:** The above authorization is approved pursuant to KRS 45A.077.		
004.	Franklin County - Lease		
005.	***Waste Water Treatment and Infrastructure Upgrades Pool.***		
	Bond Funds	***-0-***	***20,100,000***
006.	***Lodge Roof Replacements and Repairs Pool***		
	Bond Funds	***-0-***	***11,600,000***
007.	***Utilities and Communications Cabling Infrastructure Replacement Pool***		
	Bond Funds	***-0-***	***10,800,000***
008.	***Life Safety System Upgrade and ADA Improvements Pool***		
	Bond Funds	***-0-***	***4,100,000***
009.	***Hospitality Upgrades Pool***		
	Bond Funds	***-0-***	***3,400,000***

➔Section 14. 2018 Kentucky Acts Chapter 169, Part I, Operating Budget; N. Budget Reserve Trust Fund, at page 1330, as amended by 2018 Kentucky Acts Chapter 203, is further amended to read as follows:

N. BUDGET RESERVE TRUST FUND

Budget Units

1. BUDGET RESERVE TRUST FUND

	2018-19	**2019-20**
General Fund	***33,165,100*** ~~[33,455,100]~~	***180,613,000*** ~~[195,064,500]~~

➔Section 15. Whereas the provisions of this Act provide ongoing support for programs funded in the 2018-2020 executive branch biennial budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Line-ietm vetoes 1 and 2 issued March 26, 2019; Line-item veto 1 overriden March 28, 2019; Line-item veto 2 not considered for override.

CHAPTER 194

(HB 223)

AN ACT relating to the Department of Kentucky State Police and declaring an emergency.

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

➔Section 1. KRS 15.525 is amended to read as follows:

(1) A law enforcement agency may create a program to refer persons to treatment for substance use who voluntarily seek assistance from the law enforcement agency.

(2) A person voluntarily seeking assistance through a program created pursuant to this section:

(a) Shall not be placed under arrest;

(b) Shall not be prosecuted for the possession of any controlled substance ***or drug***~~[,]~~ paraphernalia~~[, or other item]~~ surrendered to the law enforcement agency. Items surrendered pursuant to this paragraph shall be recorded by the law enforcement agency at the time of surrender and shall be destroyed; ***and***

(c) ~~[Shall be paired immediately with a volunteer mentor to assist his or her recovery; and~~

~~(d)]~~Shall be ***promptly***~~[immediately]~~ referred to a community mental health center, medical provider, or other entity for substance use treatment.

(3) A person is ineligible for placement through a program established pursuant to this section if the person:

(a) Has an outstanding arrest warrant ***issued by a Kentucky court or an extraditable arrest warrant issued by a court of another state***;

(b) ***Places law enforcement or its representatives in reasonable apprehension of physical injury***~~[Has been convicted of three (3) or more drug-related offenses]~~; or

(c) Is under the age of eighteen (18) and does not have the consent of a parent or guardian.

(4) ***Information gathered by a program created pursuant to this section related to a person who has voluntarily sought assistance under this section is exempt from disclosure under the Kentucky Open Records Act pursuant to KRS 61.878(1)(a)***~~[Programs created pursuant to this section may be called an Angel Initiative Program]~~.

(5) Except for intentional misconduct, any law enforcement agency or person that provides referrals or services in accordance with subsection (2) of this section shall be immune from criminal and civil liability.

➔Section 2. KRS 16.055 is amended to read as follows:

(1) Promotions to sergeant within the department shall be on the following terms and conditions:

(a) The applicant must have served six (6) years of continuous service as a commissioned State Police officer to be eligible for promotion to sergeant;

(b) ***The applicant may be excluded from promotion eligibility by the commissioner for up to thirty-six (36) months on the basis of substantiated misconduct, as set forth in department policy;***

(c) Promotions shall be based on cumulative scores computed from twenty-five percent (25%) on personnel performance evaluation, thirty percent (30%) on job simulation examination, and forty-five percent (45%) on a written examination on which the applicant achieved at least a minimum score as determined by the commissioner in consultation with the Kentucky State Police Promotional Review Board;

(d)~~[(c)]~~ The promotional list shall be valid for one (1) year, shall consist of the numerical scores and rankings of each applicant, and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

(e)~~[(d)]~~ The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his or her staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken and the minimum score required to be eligible for placement on the promotional list;

(f) ~~[(e)]~~ The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his or her numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%), provided that the numerical score meets or exceeds the minimum score set in paragraph (d) of this subsection for the current year's promotional list;

(g) ~~[(f)]~~ The job simulation examination shall be evaluated by boards designated by the commissioner consisting of the commissioner or his or her designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing;

(h) ~~[(g)]~~ The designated job simulation examination boards will perform all evaluations under guidelines developed and approved by the commissioner; and

(i) ~~[(h)]~~ Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.

(2) Promotions from sergeant to lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.

(3) Promotions from lieutenant to captain within the department shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.

(4) The department will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

(5) Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year of continuous service from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period. ***If reverted to a previous rank, an individual is ineligible for promotion the next time the promotional process is offered.***

(6) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

(7) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.

(8) No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.

(9) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.

➔Section 3. KRS 16.198 is amended to read as follows:

The appointment, salary, benefits, and number of individuals employed as a Trooper R Class and CVE R class shall be as follows:

(1) The commissioner may appoint CVE R Class employees. CVE R Class employees shall serve on a contractual basis for a term of one (1) year, and the contract may be renewed annually, by agreement of the parties, for no more than nine (9) additional one (1) year terms. ***A CVE R Class employee shall be required to pass a physical fitness test every three (3) years.***

(2) The commissioner may appoint Trooper R Class employees who shall serve on a contractual basis for a term of one (1) year. The contract may be renewed on an annual basis upon the agreement of both parties. A Trooper R Class employee shall be required to pass a physical fitness test every three (3) years.

(3) The compensation for Trooper R Class employees and CVE R Class employees shall be established by administrative regulation promulgated pursuant to KRS Chapter 13A.

(4) (a) All appointments of individuals employed as a Trooper R Class and CVE R Class shall be based upon agency need as determined by the commissioner.

(b) Work stations for individuals employed as a Trooper R Class and CVE R Class shall be determined by agency need with consideration given to the applicant's stated preference.

(c) Merit of individuals employed as a Trooper R Class and CVE R Class shall be determined by the applicant's work performance history.

(d) Fitness of individuals employed as a Trooper R Class and CVE R Class shall be determined by the applicant's ability to adhere to the agency standards set by the commissioner under this chapter.

(5) The number of individuals employed as a Trooper R Class and CVE R Class by the department shall not:

(a) Exceed one hundred (100); or

(b) Be counted in the total employee cap for the department.

(6) All individuals employed as a Trooper R Class and CVE R Class shall be assigned the job duties of trooper or commercial vehicle enforcement officer and shall not be placed in any supervisory positions~~[or special work assignments]~~.

(7) Notwithstanding any provision of KRS 16.505 to 16.652, KRS 18A.005 to 18A.228, and KRS 61.510 to 61.705 to the contrary:

(a) Individuals employed as a Trooper R Class and CVE R Class shall continue to receive all retirement and health insurance benefits provided by the systems administered by Kentucky Retirement Systems to which they were entitled upon retiring from the department as a commissioned officer under this chapter;

(b) Individuals employed as a Trooper R Class and CVE R Class shall not be eligible to receive health insurance coverage or benefits through the department and shall not be eligible to participate in the State Police Retirement System or the Kentucky Employees Retirement System; and

(c) The department shall not pay health insurance contributions to the state health insurance plan for individuals employed as a Trooper R Class or CVE R Class.

(8) Individuals employed as a Trooper R Class or CVE R Class shall be employed on a contractual basis and shall be provided due process pursuant to KRS 16.140 or 16.192 for any disciplinary action imposed by the commissioner. A decision by the commissioner to not renew a contract shall not be considered a disciplinary action for purposes of this section.

(9) The provisions of this section shall not eliminate or reduce any requirements under KRS 61.637 for the department to pay employer contributions to the retirement systems or to reimburse the retirement systems for the cost of retiree health, on any individual employed as a Trooper R Class or CVE R Class.

➔Section 4. KRS 61.906 is amended to read as follows:

In order to qualify for a commission as a special law enforcement officer under KRS 61.900 to 61.930, an individual must present satisfactory evidence of compliance with the following conditions and requirements:

(1) No person shall be eligible for a commission who:

(a) Has been dishonorably discharged from the Armed Forces of the United States;

(b) Has been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he ***or she*** has not received a full pardon;

(c) Has been convicted of any other offense or offenses more than five (5) times within the previous three (3) years;

(d) Has by any court of competent jurisdiction been declared mentally disabled by reason of an intellectual disability or disease and has not been restored; or

(e) Suffers from habitual drunkenness or from narcotics addiction or dependence, or from any physical defect or deficiency which the secretary determines to materially impair the applicant's ability to perform the duties of a special law enforcement officer.

(2) Every person to be eligible for a commission shall:

(a) Have reached his ***or her*** twenty-first birthday;

(b) Provide, on forms supplied by the secretary, such information pertaining to himself as may reasonably be requested thereon, including, but not limited to his: name; age; date of birth; current address and employment; prior addresses and employment for the past ten (10) years; aliases, if any; arrest and conviction record, if any; Social Security number; fingerprints; photographs; and general physical description. The accuracy of such information shall be attested by the applicant and his ***or her*** attestation shall be notarized by one authorized to administer oaths;

(c) Be of good moral character;

(d) Provide references from two (2) reputable ***individuals***~~[residents of the Commonwealth]~~ who are not related to him ***or her*** and who have known him ***or her*** well for a period of not less than three (3) years, attesting to his ***or her*** good character;

(e) Pay the fees provided in KRS 61.908; and

(f) Provide evidence satisfactory to the secretary that he ***or she*** meets the following requirements:

1. Is a graduate of an accredited high school or of an equivalent technical or vocational training or education program satisfactory to the secretary; or holds a High School Equivalency Diploma; provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of this subsection;

2. Has successfully completed not fewer than eighty (80) hours of training in a program approved by the council and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; or has been employed as a full-time sworn public peace officer for a period of not less than one (1) year within the past five (5) years, and has never been discharged for cause from employment as a sworn public peace officer; or has been employed in a full-time capacity as a military policeman engaged in law enforcement for the United States Armed Forces for a period of not less than one (1) year within the past five (5) years; or has successfully completed a written, oral and practical examination approved by the council and dealing comprehensively with the subject matter of criminal law and the law of arrest, search and seizure; and

3. Demonstrates, in written and practical examinations approved by the council, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid. Provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of these subsections.

➔Section 5. Whereas recruitment is vital to the Department of Kentucky State Police in fulfilling its mission and substance abuse treatment programs are a critical part of aiding the residents of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming law.

Signed by Governor April 9, 2019.

CHAPTER 195

(HB 81)

AN ACT relating to executive branch ethics.

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

➔Section 1. KRS 11A.010 is amended to read as follows:

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

(1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means***:***

(a) All major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, ***executive assistants, policy advisors, special assistants, administrative coordinators, executive advisors, staff*** ~~[principal]~~ assistants, ***and*** division directors***;*** ~~[,]~~

(b) Members and full-time chief administrative officers of***:***

1. The Parole Board***;*** ~~[,]~~

2. Kentucky Claims Commission***;*** ~~[,]~~

3. Kentucky Retirement Systems board of trustees***;*** ~~[,]~~

4. Kentucky Teachers' Retirement System board of trustees***;*** ~~[,]~~

5. The Kentucky Public Employees Deferred Compensation Authority board of trustees***;*** ~~[,]~~

6. Public Service Commission***;*** ~~[,]~~

7. Worker's Compensation Board and its administrative law judges***;*** ~~[,]~~

8. The Kentucky Occupational Safety and Health Review Commission***;*** ~~[,]~~

9. The Kentucky Board of Education***; and*** ~~[,]~~

10. The Council on Postsecondary Education***;*** ~~[,]~~

(c) ***Salaried members of executive branch boards and commissions;*** and

(d) Any person who***, through*** ~~[holds]~~ a personal service contract ***or any other contractual employment arrangement with an agency, performs*** ~~[to perform]~~ on a full-time***, nonseasonal*** basis ~~[for a period of time not less than six (6) months]~~a function of any ***major management*** position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts;~~[and]~~

(h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees; ***and***

(i) Any person who, through any contractual arrangement with an agency, is employed to perform a function of a position within an executive branch agency on a full-time, nonseasonal basis;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally;

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public;~~[and]~~

(20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert***; and***

(21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time employees, which is paid on a regular basis without regard to the actual number of hours worked.

Signed by Governor April 9, 2019.

CHAPTER 196

(HB 458)

AN ACT relating to taxation.

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

➔Section 1. KRS 131.190 is amended to read as follows:

(1) No present or former commissioner or employee of the department, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

(2) The prohibition established by subsection (1) of this section shall not extend to:

(a) Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;

(b) Any matter properly entered upon any assessment record, or in any way made a matter of public record;

(c) Furnishing any taxpayer or his properly authorized agent with information respecting his own return;

(d) Testimony provided by the commissioner or any employee of the department in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;

(e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;

(f) Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this paragraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars ($10);

(g) Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;

(h) Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;

(i) Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis;~~[or]~~

(j) ***Providing documents, data, or other information to a third party pursuant to an order issued by a court of competent jurisdiction; or***

(k) Providing information to the Legislative Research Commission under:

1. KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;

2. KRS 141.436 for purposes of the energy efficiency products credits;

3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;

4. KRS 148.544 for purposes of the film industry incentives;

5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization tax credits and the job assessment fees;

6. KRS 141.068 for purposes of the Kentucky investment fund;

7. KRS 141.396 for purposes of the angel investor tax credit;

8. KRS 141.389 for purposes of the distilled spirits credit;~~[and]~~

9. KRS 141.408 for purposes of the inventory credit***; and***

10. KRS 141.390 for purposes of the recycling and composting credit.

(3) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.

(4) Access to and inspection of information received from the Internal Revenue Service is for department use only, and is restricted to tax administration purposes. Information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, or any other person.

(5) Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Department of Revenue under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

➔Section 2. KRS 134.580 is amended to read as follows:

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

(a) "Agency" means the agency of state government which administers the tax to be refunded or credited; and

(b) "Overpayment" or "payment where no tax was due" means the excess of the tax payments made over the correct tax liability determined under the terms of the applicable statute without reference to the constitutionality of the statute.

(2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 49.220 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Claims Commission or courts may direct.

(3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 49.220 and 131.110.

(4) ***Notwithstanding any provision of this section, when an assessment of limited liability entity tax is made under KRS 141.0401 against a pass-through entity as defined in KRS 141.206, the corporation or individual partners, members, or shareholders of the pass-through entity shall have the greater of the time period provided by this section or one hundred eighty (180) days from the date the assessment becomes final to file amended returns requesting any refund of tax for the taxable year of the assessment and to allow for items of income, deduction, and credit to be properly reported on the returns of the partners, members, or shareholders of the pass-through entity subject to adjustment.***

(5) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(6) ~~[(5)]~~ Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.

(7) ~~[(6)]~~ This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.

(8) ~~[(7)]~~ In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

(9) ~~[(8)]~~ No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.

(10) ~~[(9)]~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:

(a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose;

(b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn; and

(c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.

(11) ~~[(10)]~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:

(a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return; and

(b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

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

(1) Effective for taxable years beginning on or after January 1, 2019, any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the Kentucky YMCA Youth Assembly program may designate an amount, not to exceed the amount of the refund, to be paid to the Kentucky YMCA Youth Association. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.

(2) The tax refund designation authorized by this section shall be printed on the face of the Kentucky individual income tax form.

(3) The instructions accompanying the individual income tax return shall include a description of the Kentucky YMCA Youth Assembly and the purposes for which the funds from the income tax checkoff may be used.

(4) The department shall, by July 1, 2020, and by July 1 of each year thereafter, transfer the funds designated by taxpayers under this section to the Kentucky YMCA Youth Association.

(5) The funds transferred to the Kentucky YMCA Youth Association under subsection (4) of this section shall be used exclusively in support of the Kentucky YMCA Youth Assembly program.

➔Section 4. KRS 141.039 is amended to read as follows:

For taxable years beginning on or after January 1, 2018, in the case of corporations:

(1) Gross income shall be calculated by adjusting federal gross income as defined in Section 61 of the Internal Revenue Code as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Include the amount of deprecation deduction calculated under 26 U.S.C. sec. 167 or 168; and

(2) Net income shall be calculated by subtracting from gross income:

(a) The deduction for depreciation allowed by KRS 141.0101;

(b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;~~[and]~~

(c) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:

1. Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

2. The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

3. The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

4. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

5. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

6. Any deduction prohibited by KRS 141.205; and

7. Any dividends-paid deduction of any captive real estate investment trust***; and***

(d) 1. A deferred tax deduction in an amount computed in accordance with this paragraph.

2. For purposes of this paragraph:

a. "Net deferred tax liability" means deferred tax liabilities that exceed the deferred tax assets of a combined group as defined in Section 5 of this Act, as computed in accordance with accounting principles generally accepted in the United States of America; and

b. "Net deferred tax asset" means that deferred tax assets exceed the deferred tax liabilities of the combined group, as computed in accordance with accounting principles generally accepted in the United States of America.

3. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with accounting principles generally accepted in the United States of America, as of January 1, 2019, shall be eligible for this deduction.

4. If the provisions of Section 5 of this Act result in an aggregate increase to the member's net deferred tax liability, an aggregate decrease to the member's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, the combined group shall be entitled to a deduction, as determined in this paragraph.

5. For ten (10) years beginning with the combined group's first taxable year beginning on or after January 1, 2024, a combined group shall be entitled to a deduction from the combined group's entire net income equal to one-tenth (1/10) of the amount necessary to offset the increase in the net deferred tax liability, decrease in the net deferred tax asset, or aggregate change from a net deferred tax asset to a net deferred tax liability. The increase in the net deferred tax liability, decrease in the net deferred tax asset, or the aggregate change from a net deferred tax asset to a net deferred tax liability shall be computed based on the change that would result from the imposition of the combined reporting requirement under Section 5 of this Act, but for the deduction provided under this paragraph as of the effective date of this paragraph.

6. The deferred tax impact determined in subparagraph 5. of this paragraph shall be converted to the annual deferred tax deduction amount, as follows:

a. The deferred tax impact determined in subparagraph 5. of this paragraph shall be divided by the tax rate determined under Section 12 of this Act;

b. The resulting amount shall be further divided by the apportionment factor determined by KRS 141.120 or 141.121 that was used by the combined group in the calculation of the deferred tax assets and deferred tax liabilities as described in subparagraph 5. of this paragraph;

c. The resulting amount represents the total net deferred tax deduction available over the ten (10) year period as described in subparagraph 5. of this paragraph.

7. The deduction calculated under this paragraph shall not be adjusted as a result of any events happening subsequent to the calculation, including but not limited to any disposition or abandonment of assets. The deduction shall be calculated without regard to the federal tax effect and shall not alter the tax basis of any asset. If the deduction under this section is greater than the combined group's entire Kentucky net income, any excess deduction shall be carried forward and applied as a deduction to the combined group's entire net income in future taxable years until fully utilized.

8. Any combined group intending to claim a deduction under this paragraph shall file a statement with the department on or before July 1, 2019. The statement shall specify the total amount of the deduction which the combined group claims on the form including calculations and other information supporting the total amounts of the deduction as required by the department. No deduction shall be allowed under this paragraph for any taxable year except to the extent claimed on the timely filed statement in accordance with this paragraph.

➔Section 5. KRS 141.202 is amended to read as follows:

(1) This section shall apply to taxable years beginning on or after January 1, 2019.

(2) As used in this section:

(a) "Combined group" means the group of all corporations whose income and apportionment factors are required to be taken into account as provided in subsection (3) of this section in determining the taxpayer's share of the net income or loss apportionable to this state***. A combined group shall include only corporations, the voting stock of which is more than fifty percent (50%) owned, directly or indirectly, by a common owner or owners***;

(b) "Corporation" has the same meaning as in KRS 141.010, including an organization of any kind treated as a corporation for tax purposes under KRS 141.040, wherever located, which if it were doing business in this state would be a taxpayer, and the business conducted by a pass-through entity which is directly or indirectly held by a corporation shall be considered the business of the corporation to the extent of the corporation's distributive share of the pass-through entity income, inclusive of guaranteed payments;

(c) "Doing business in a tax haven" means being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards;

(d) ***1.*** "Tax haven" means a jurisdiction that, during the taxable year has no or nominal effective tax on the relevant income and:

a. ~~[1.]~~ Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefitting from the tax regime;

b. ~~[2.]~~ Has a tax regime which lacks transparency. A tax regime lacks transparency if the details of legislative, legal, or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;

c. ~~[3.]~~ Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

d. ~~[4.]~~ Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

e. ~~[5.]~~ Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy***.***

2. "Tax haven" does not include a jurisdiction that has entered into a comprehensive income tax treaty with the United States, which the Secretary of the Treasury has determined is satisfactory for purposes of Section 1(h)(11)(C)(i)(II) of the Internal Revenue Code;

(e) "Taxpayer" means any corporation subject to the tax imposed under this chapter;

(f) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single corporation or of a commonly controlled group of corporations that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. For purposes of this section, the term "unitary business" shall be broadly construed, to the extent permitted by the United States Constitution; and

(g) "United States" means the fifty (50) states of the United States, the District of Columbia, and United States' territories and possessions.

(3) (a) Except as provided in KRS 141.201, a taxpayer engaged in a unitary business with one (1) or more other corporations shall file a combined report which includes the income, determined under subsection (5) of this section, and the apportionment fraction, determined under KRS 141.120 and paragraph (d) of this subsection, of all corporations that are members of the unitary business, and any other information as required by the department. ***The combined report shall be filed on a waters-edge basis under subsection (8) of this section.***

(b) The department may, by administrative regulation, require that the combined report include the income and associated apportionment factors of any corporations that are not included as provided by paragraph (a) of this subsection, but that are members of a unitary business, in order to reflect proper apportionment of income of the entire unitary businesses. Authority to require combination by administrative regulation under this paragraph includes authority to require combination of corporations that are not, or would not be combined, if the corporation were doing business in this state.

(c) In addition, if the department determines that the reported income or loss of a taxpayer engaged in a unitary business with any corporation not included as provided by paragraph (a) of this subsection represents an avoidance or evasion of tax by the taxpayer, the department may, on a case-by-case basis, require all or any part of the income and associated apportionment factors of the corporation be included in the taxpayer's combined report.

(d) With respect to the inclusion of associated apportionment factors as provided in paragraph (a) of this subsection, the department may require the inclusion of any one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.

(e) ***A unitary business shall consider the combined gross receipts and combined income from all sources of all members under subsection (8) of this section, including eliminating entries for transactions among the members under subsection (8)(e) of this section.***

(f) Notwithstanding paragraphs (a) to ***(e)***~~[(d)]~~ of this subsection, a consolidated return may be filed as provided in KRS 141.201 if the taxpayer makes an election according to KRS 141.201.

(4) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include, in addition to the other types of income, the taxpayer member's share of apportionable income of the combined group, where apportionable income of the combined group is calculated as a summation of the individual net incomes of all members of the combined group. A member's net income is determined by removing all but apportionable income, expense, and loss from that member's total income as provided in subsection (5) of this section.

(5) (a) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include:

1. Its share of any income apportionable to this state of each of the combined groups of which it is a member, determined under subsection (6) of this section;

2. Its share of any income apportionable to this state of a distinct business activity conducted within and without the state wholly by the taxpayer member, determined under KRS 141.120;

3. Its income from a business conducted wholly by the taxpayer member entirely within the state;

4. Its income sourced to this state from the sale or exchange of capital or assets, and from involuntary conversions, as determined under subsection (8)(k) of this section;

5. Its nonapportionable income or loss allocable to this state, determined under KRS 141.120;

6. Its income or loss allocated or apportioned in an earlier year, required to be taken into account as state source income during the income year, other than a net operating loss; and

7. Its net operating loss carryover.~~[If the taxable income computed pursuant to this subsection results in a loss for a taxpayer member of the combined group, that taxpayer member has a Kentucky net operating loss, subject to the net operating loss limitations and carry forward provisions of KRS 141.011. The net operating loss is applied as a deduction in a subsequent year only if that taxpayer has Kentucky source positive net income, whether or not the taxpayer is or was a member of a combined reporting group in the subsequent year.]~~

(b) No tax credit or post-apportionment deduction earned by one (1) member of the group, but not fully used by or allowed to that member, may be used in whole or in part by another member of the group or applied in whole or in part against the total income of the combined group.

(c) ***If the taxable income computed pursuant to Section 4 of this Act results in a net loss for a taxpayer member of the combined group, that taxpayer member has a Kentucky net operating loss, subject to***

the net operating loss limitations and carry forward provisions of KRS 141.011. No prior year net operating loss carryforward shall be available to entities that were not doing business in this state in the year in which the loss was incurred. A Kentucky net operating loss carryover incurred by a taxpayer member of a combined group shall be deducted from income or loss apportioned to this state pursuant to this section as follows:

1. For taxable years beginning on or after the first day of the initial taxable year for which a combined unitary tax return is required under this section, if the computation of a combined group's Kentucky net income before apportionment to this state results in a net operating loss, a taxpayer member of the group may carry over its share of the net operating loss as apportioned to this state, as calculated under this section and in accordance with KRS 141.120 or 141.121, and it shall be deductible from a taxpayer member's apportioned net income derived from the unitary business in a future tax year to the extent that the carryover and deduction is otherwise consistent with KRS 141.011;

2. Where a taxpayer member of a combined group has a Kentucky net operating loss carryover derived from a loss incurred by a combined group in a tax year beginning on or after the first day of the initial tax year for which a combined unitary tax return is required under this section, then the taxpayer member may share the net operating loss carryover with other taxpayer members of the combined group if the other taxpayer members were members of the combined group in the tax year that the loss was incurred. Any amount of net operating loss carryover that is deducted by another taxpayer member of the combined group shall reduce the amount of net operating loss carryover that may be carried over by the taxpayer member that originally incurred the loss;

3. Where a taxpayer member of a combined group has a net operating loss carryover derived from a loss incurred in a tax year prior to the initial tax year for which a combined unitary tax return is required under this section, the carryover shall remain available to be deducted by that taxpayer member and any other taxpayer members of the combined group but in no case shall the deduction reduce any taxpayer member's Kentucky apportioned taxable income by more than fifty percent (50%) in any taxable year, other than the taxpayer member that originally incurred the net operating loss, in which case no limitation is provided except as provided by Section 172 of the Internal Revenue Code. Any net operating loss carryover that is not utilized in a particular taxable year shall be carried over by the taxpayer member that generated the loss and utilized in the future consistent with the limitations of this subparagraph; or

4. Where a taxpayer member of a combined group has a net operating loss carryover derived from a loss incurred in a tax year during which the taxpayer member was not a taxpayer member of the combined group, the carryover shall remain available to be deducted by that taxpayer member or other taxpayer members but in no case shall the deduction reduce any taxpayer member's Kentucky apportioned taxable income by more than fifty percent (50%) in any taxable year, other than the taxpayer member that originally incurred the net operating loss, in which case no limitation is provided except as provided by Section 172 of the Internal Revenue Code. Any net operating loss carryover that is not utilized in a particular taxable year, shall be carried over by the taxpayer member that generated the loss and utilized in the future consistent with the limitations of this subparagraph~~[A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year, regardless of the composition of that income as apportioned, allocated, or wholly within this state]~~.

(6) The taxpayer's share of the business income apportionable to this state of each combined group of which it is a member shall be the product of:

(a) The apportionable income of the combined group, determined under subsection (7) of this section; and

(b) The taxpayer member's apportionment fraction, determined under KRS 141.120, including in the sales factor numerator the taxpayer's sales associated with the combined group's unitary business in this state, and including in the denominator the sales of all members of the combined group, including the taxpayer, which sales are associated with the combined group's unitary business wherever located. The sales of a pass-through entity shall be included in the determination of the partner's apportionment percentage in proportion to a ratio, the numerator of which is the amount of the partner's distributive

share of the pass-through entity's unitary income included in the income of the combined group as provided in subsection (8) of this section and the denominator of which is the amount of pass-through entity's total unitary income.

(7) The apportionable income of a combined group is determined as follows:

(a) The total income of the combined group is the sum of the income of each member of the combined group determined under federal income tax laws, as adjusted for state purposes, as if the member were not consolidated for federal purposes; and

(b) From the total income of the combined group determined under subsection (8) of this section, subtract any income and add any expense or loss, other than the apportionable income, expense, or loss of the combined group.

(8) To determine the total income of the combined group, taxpayer members shall take into account all or a portion of the income and apportionment factor of only the following members otherwise included in the combined group as provided in subsection (3) of this section:

(a) The entire income and apportionment percentage of any member***,*** incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States***, that earns less than eighty percent (80%) of its income from sources outside of the United States, the District of Columbia, or any territory or possession of the United States***;

(b) Any member that earns more than twenty percent (20%) of its income, directly or indirectly, from intangible property or service related activities that are deductible against the apportionable income of other members of the combined group, to the extent of that income and the apportionment factor related to that income***. If a non-U.S. corporation is includible as a member in the combined group, to the extent that the non-U.S. corporation's income is excluded from U.S. taxation pursuant to the provisions of a comprehensive income tax treaty, the income or loss is not includible in the combined group's net income or loss. The member's expenses or apportionment factors attributable to income that is excluded from U.S. taxation pursuant to the provisions of a comprehensive income tax treaty are not to be included in the combined report***;

(c) The entire income and apportionment factor of any member that is doing business in a tax haven. If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions, and practices that cause the jurisdiction to meet the definition established in subsection (2)(d) of this section, the activity of the member shall be treated as not having been conducted in a tax haven;

(d) If a unitary business includes income from a pass-through entity, the income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the pass-through entity's unitary income;

(e) Income from an intercompany transaction between members of the same combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-13. Upon the occurrence of any of the following events, deferred income resulting from an intercompany transaction between members of a combined group shall be restored to the income of the seller, and shall be apportionable income earned immediately before the event:

1. The object of a deferred intercompany transaction is:

a. Resold by the buyer to an entity that is not a member of the combined group;

b. Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or

c. Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

2. The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary;

(f) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction provided by Section 170 of the Internal Revenue Code, be subtracted first from the apportionable income of the combined group, subject to the income limitations of that section applied to the entire apportionable income of the group, and any remaining amount shall then be treated as a nonapportionable expense allocable to the member that incurred the expense, subject to the income

limitations of that section applied to the nonapportionable income of that specific member. Any charitable deduction disallowed under this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and this paragraph shall apply in the subsequent year in determining the allowable deduction in that year;

(g) Gain or loss from the sale or exchange of capital assets, property described by Section 1231(a)(3) of the Internal Revenue Code, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:

1. For each class of gain or loss, including short-term capital, long-term capital, Internal Revenue Code Section 1231, and involuntary conversions, all members' gain and loss for the class shall be combined, without netting between the classes, and each class of net gain or loss separately apportioned to each member using the member's apportionment percentage determined under subsection (6) of this section;

2. Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any apportioned gain and loss from other combined groups, against the taxpayer member's nonapportionable gain and loss for all classes allocated to this state, using the rules of Sections 1231 and 1222 of the Internal Revenue Code, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, Internal Revenue Code Section 1231 property, and involuntary conversions which are nonapportionable items allocated to another state;

3. Any resulting state source income or loss, if the loss is not subject to the limitations of Section 1211 of the Internal Revenue Code, of a taxpayer member produced by the application of subparagraphs 1. and 2. of this paragraph shall then be applied to all other state source income or loss of that member; and

4. Any resulting state source loss of a member that is subject to the limitations of Section 1211 of the Internal Revenue Code shall be carried forward by that member, and shall be treated as state source short-term capital loss incurred by that member for the year for which the carryover applies; and

(h) Any expense of one (1) member of the unitary group which is directly or indirectly attributable to the nonapportionable or exempt income of another member of the unitary group shall be allocated to that other member as corresponding nonapportionable or exempt expense, as appropriate.

(9) (a) As a filing convenience, and without changing the respective liability of the group members, members of a combined reporting group shall annually designate one (1) taxpayer member of the combined group to file a single return in the form and manner prescribed by the department, in lieu of filing their own respective returns.

(b) The taxpayer member designated to file the single return shall consent to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report, and shall agree to act as agent on behalf of those taxpayers for the taxable year for matters relating to the combined report. If for any reason the surety is unwilling or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members.

➔Section 6. KRS 132.190 is amended to read as follows:

(1) All property shall be subject to taxation, unless it is exempted by the Constitution or in the case of personal property unless it is exempted by the Constitution or by statute. Twenty-five (25) domestic fowl to each family shall be exempt from taxation for any purpose.

(2) All intangible personal property of corporations organized under the laws of this state, unless it has acquired a business situs without this state, shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, except: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise canceled or revoked.

(4) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state~~[; nor the method of taxation of financial institutions provided in KRS 136.505; nor the method of taxation of savings and loan associations provided in KRS 136.300]~~.

➔SECTION 7. A NEW SECTION OF KRS 136.290 TO 136.310 IS CREATED TO READ AS FOLLOWS:

(1) Beginning January 1, 2021, the savings and loan tax under KRS 136.290, 136.300, and 136.310 shall no longer apply to savings and loan associations.

(2) Beginning January 1, 2021, all savings and loan associations shall be subject to the corporation income tax under Section 12 of this Act and the limited liability entity tax under Section 13 of this Act. Notwithstanding Sections 12 and 13 of this Act, any savings and loan association operating on a fiscal year shall file a short-year corporation income and limited liability entity tax return and pay any tax due thereon for the period beginning January 1, 2021, through the end of the savings and loan association's normal fiscal year. The department may issue guidance regarding the filing of the short-year return.

➔SECTION 8. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED TO READ AS FOLLOWS:

(1) Beginning January 1, 2021, the state bank franchise tax under Section 10 of this Act shall no longer apply to financial institutions.

(2) Beginning January 1, 2021, all financial institutions shall be subject to the corporation income tax under Section 12 of this Act and the limited liability entity tax under Section 13 of this Act. Notwithstanding Section 12 or 13 of this Act, any financial institution operating on a fiscal year basis shall file a short-year corporation income and limited liability entity tax return and pay any tax due thereon for the period beginning January 1, 2021, through the end of the financial institution's normal fiscal year. The department may issue guidance regarding the filing of the short-year return.

(3) Financial institutions shall be subject to all applicable local government franchise taxes imposed under Section 11 of this Act.

➔Section 9. KRS 136.500 is amended to read as follows:

As used in KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Billing address" means the location indicated in the books and records of the financial institution, on the first day of the taxable year or the date in the taxable year when the customer relationship began, as the address where any notice, statement, or bill relating to a customer's account is mailed;

(2) "Borrower located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state or a borrower that is not engaged in a trade or business;

(3) "Credit card holder located in this state" means a credit card holder whose billing address is in this state;

(4) "Department" means the Department of Revenue;

(5) "Commercial domicile" means:

(a) The location from which the trade or business is principally managed and directed; or

(b) The state of the United States or the District of Columbia from which the financial institution's trade or business in the United States is principally managed and directed, if a financial institution is organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year;

(6) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, the determination of whether the payments would constitute gross income to the employees under the Internal Revenue Code shall be made as though the employees were subject to the Internal Revenue Code;

(7) "Credit card" means credit, travel, or entertainment card;

(8) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because one (1) of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card;

(9) "Employee" means, with respect to a particular financial institution, "employee" as defined in Section 3121(d) of the Internal Revenue Code;

(10) "Financial institution" means:

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(11) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

(a) "Gross rents" includes but is not limited to:

1. Any amount payable for the use or possession of real property or tangible property, whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

2. Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

3. A proportionate part of the cost of any improvement to real property made by or on behalf of the financial institution which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the financial institution, the value of the land is determined by multiplying the gross rent by eight (8) and the value of the building is determined in the same manner as if owned by the financial institution;

(b) The following are not included in the term "gross rents":

1. Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

2. Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

3. Reasonable amounts payable for storage, if these amounts are payable for space not designated and not under the control of the financial institution; and

4. That portion of any rental payment which is applicable to the space subleased from the financial institution and not used by it;

(12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in effect on December 31, 2001, exclusive of any amendments made subsequent to that date;

(13) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, and the purchase, in whole or in part, of the extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under Section 595 of the Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a

trading account, securities, interests in a real estate mortgage investment company, or other mortgage-backed or asset-backed security, and other similar items;

(14) "Loan secured by real property" means a loan or other obligation for which fifty percent (50%) or more of the aggregate value of the collateral used to secure the loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property;

(15) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program where a credit card is accepted in payment for merchandise or services sold to the card holder;

(16) "Person" means an individual, estate, trust, partnership, corporation, limited liability company, or any other business entity;

(17) "Principal base of operations" means:

(a) With respect to transportation property, the place from which the property is regularly directed or controlled; and

(b) With respect to an employee:

1. The place the employee regularly starts work and to which the employee customarily returns in order to receive instructions from his or her employer; or

2. If the place referred to in subparagraph 1. of this paragraph does not exist, the place the employee regularly communicates with customers or other persons; or

3. If the place referred to in subparagraph 2. of this paragraph does not exist, the place the employee regularly performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points;

(18) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the financial institution may claim depreciation for federal income tax purposes, or property to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure;

(19) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution;

(20) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country;

(21) "Syndication" means an extension of credit in which two (2) or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount;

(22) ***(a)*** "Taxable year" means calendar year 1996 ***through calendar year 2020 for purposes of the state bank franchise tax under Section 10 of this Act;*** and

(b) "Taxable year" means calendar year 1996 and every calendar year thereafter ***for purposes of the local government franchise tax under Section 11 of this Act***;

(23) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to the property, such as rolling stock, barges, or trailers;

(24) "United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States; and

(25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts, and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

➔Section 10. KRS 136.505 is amended to read as follows:

~~[(1)]~~Every financial institution regularly engaged in business in this Commonwealth at any time during the taxable year as determined under KRS 136.520 shall pay an annual state franchise tax for each taxable year or portion of a taxable year ***prior to January 1, 2021,*** to be measured by its net capital as determined in KRS 136.515 and, for financial institutions with business activity that is taxable both within and without this Commonwealth, apportioned under KRS 136.525.~~[~~

~~(2) The tax shall be in lieu of all city, county, and local taxes, except the real estate transfer tax levied in KRS Chapter 142, real property and tangible personal property taxes levied in KRS Chapter 132, taxes upon users of utility services, and the local franchise tax levied in KRS 136.575.~~

~~(3) Every financial institution regularly engaged in business in this Commonwealth shall be subject to all state taxes in effect on July 15, 1996, except for the corporation income tax levied in KRS Chapter 141, the limited liability entity tax levied in KRS 141.0401, and the corporation license tax levied in this chapter.]~~

➔Section 11. KRS 136.575 is amended to read as follows:

(1) As used in this section***:***~~[,]~~

(a) "Deposits" means all demand and time deposits, excluding deposits of the United States government, state and political subdivisions, other financial institutions, public libraries, educational institutions, religious institutions, charitable institutions, and certified and officers' checks***; and***

(b) "Financial institution" means:

1. A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

2. Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;

3. Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

4. Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997.

(2) Counties, cities, and urban-county governments may impose a franchise tax on financial institutions measured by the deposits in the institutions located within the jurisdiction of the county, city, or urban-county government at a rate not to exceed twenty-five thousandths of one percent (0.025%) of the deposits if imposed by counties and cities and at a rate not to exceed fifty thousandths of one percent (0.050%) of the deposits if imposed by urban-county governments. The amount and location of deposits in the financial institutions shall be determined by the method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation. The accounting method used to allocate deposits for completion of the summary of deposits shall be the same as has been utilized in prior periods. Any deviation from prior accounting methods may only be adopted with the permission of the department.

(3) By August 15, 1997, and annually thereafter, each financial institution shall file with the department, on a form prescribed by the department, a report of all deposits located within this Commonwealth as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The department shall review the report and certify to the local jurisdictions that have enacted the franchise tax by October 1 of each year the amount of deposits within the jurisdiction and amount of the tax due. The local taxing authority shall issue bills to the financial institution by December 1 and require payment, with a two percent (2%) discount by December 31, or without discount by January 31 of the next year.

(4)~~[For calendar year 1996 only, each financial institution shall file with the department on or before September 15, 1996, a report of all deposits located within this Commonwealth as of June 30, 1996, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The department shall review the report after being given notice by the local jurisdiction that the tax under this section was~~

~~enacted during 1996, and shall certify to the local jurisdiction the amount of deposits within the jurisdiction and the amount of tax due by March 1, 1997. The local taxing authority shall issue bills to the financial institution by May 1, 1997, and require payment with a two percent (2%) discount by May 31, 1997, or without discount by June 30, 1997.~~

~~(5)~~] The local jurisdiction shall notify the department of the tax rate imposed upon the enactment of the tax. The local jurisdiction shall also notify the department of any subsequent rate changes.

(5) The tax allowed by this section shall be in lieu of all city, county, and local taxes, except the real estate transfer tax levied in KRS Chapter 142, real property and tangible personal property taxes levied in KRS Chapter 132, and taxes upon users of utility services.

➔Section 12. KRS 141.040 is amended to read as follows:

(1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) ***and (b)***~~[to (h)]~~ of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in this section:

(a) ***For taxable years beginning prior to January 1, 2021:***

1. Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;

2.~~[(b)]~~ Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

3.~~[(c)]~~ Banks for cooperatives;

4.~~[(d)]~~ Production credit associations;

5.~~[(e)]~~ Insurance companies, including ***farmers'***~~[farmers]~~ or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

6.~~[(f)]~~ Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

7.~~[(g)]~~ Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and

8.~~[(h)]~~ Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a.~~[1.]~~ The property consists of the final printed product, or copy from which the printed product is produced; and

b.~~[2.]~~ The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b)***; and***

(b) For taxable years beginning on or after January 1, 2021:

1. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

2. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

3. Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and

4. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a. The property consists of the final printed product, or copy from which the printed product is produced; and

b. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b).

(2) For taxable years beginning on or after January 1, 2018, the rate of five percent (5%) of taxable net income shall apply.

(3) For taxable years beginning on or after January 1, 2007, and before January 1, 2018, the following rates shall apply:

(a) Four percent (4%) of the first fifty thousand dollars ($50,000) of taxable net income;

(b) Five percent (5%) of taxable net income over fifty thousand dollars ($50,000) up to one hundred thousand dollars ($100,000); and

(c) Six percent (6%) of taxable net income over one hundred thousand dollars ($100,000).

(4) (a) An S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.

(b) 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.

2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.

(c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.

➔Section 13. KRS 141.0401 is amended to read as follows:

(1) As used in this section:

(a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(c) "Combined group" means all members of an affiliated group as defined in KRS 141.200(9)(b) and all limited liability pass-through entities that would be included in an affiliated group if organized as a corporation;

(d) "Cost of goods sold" means:

1. Amounts that are:

a. Allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service relating to cost of goods sold, unless modified by this paragraph; and

b. Incurred in acquiring or producing the tangible product generating the Kentucky gross receipts.

2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:

a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;

b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and

c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;

3. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs shall be included in cost of goods sold.

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

(e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then "Kentucky gross profits" means Kentucky gross receipts; and

2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources means gross receipts from all sources;

(f) "Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;

(g) "Bulk delivery costs" means the cost of delivering the product to the consumer if:

1. The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and

2. The tangible product is taxable under KRS 138.220;

(h) "Manufacturing" and "producing" means:

1. Manufacturing, producing, constructing, or assembling components to produce a significantly different or enhanced end tangible product;

2. Mining or severing natural resources from the earth; or

3. Growing or raising agricultural or horticultural products or animals;

(i) "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land;

(j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible product;

(k) "Tangible personal property" means property, other than real property, that has physical form and characteristics; and

(l) "Tangible product" means real property and tangible personal property;

(2) (a) For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits except as provided in this subsection. A small business exclusion from this tax shall be provided based on the reduction contained in this subsection. The tax shall be the greater of the amount computed under paragraph (b) of this subsection or one hundred seventy-five dollars ($175), regardless of the application of any tax credits provided under this chapter or any other provisions of the Kentucky Revised Statutes for which the business entity may qualify.

(b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:

1. a. If the corporation's or limited liability pass-through entity's gross receipts from all sources are three million dollars ($3,000,000) or less, the limited liability entity tax shall be ***one hundred seventy-five dollars ($175)*** ~~[zero]~~;

b. If the corporation's or limited liability pass-through entity's gross receipts from all sources are greater than three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the limited liability entity tax shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts reduced by an amount equal to two thousand eight hundred fifty dollars ($2,850) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross receipts for the taxable year, and the denominator of which is three

million dollars ($3,000,000), but in no case shall the result be less than ***one hundred seventy-five dollars ($175)***~~[zero]~~;

c. If the corporation's or limited liability pass-through entity's gross receipts from all sources are equal to or greater than six million dollars ($6,000,000), the limited liability entity tax shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts.

2. a. If the corporation's or limited liability pass-through entity's gross profits from all sources are three million dollars ($3,000,000) or less, the limited liability entity tax shall be ***one hundred seventy-five dollars ($175)***~~[zero]~~;

b. If the corporation's or limited liability pass-through entity's gross profits from all sources are at least three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of the corporation's or limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars ($22,500) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars ($3,000,000), but in no case shall the result be less than ***one hundred seventy-five dollars ($175)***~~[zero]~~;

c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of all of the corporation's or limited liability pass-through entity's Kentucky gross profits.

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

(c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability pass-through entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars ($175) at each layer.

(d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.

(3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:

(a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars ($175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.

(b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.

(4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required in KRS ***141.044***~~[141.042]~~ shall be paid by the original due date of the return.

(5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.

(6) The tax imposed by subsection (2) of this section shall not apply to:

(a) ***For taxable years beginning prior to January 1, 2021:***

1. Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;

2.~~[(b)]~~ Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

3.~~[(c)]~~ Banks for cooperatives;

4.~~[(d)]~~ Production credit associations;

5.~~[(e)]~~ Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

6.~~[(f)]~~ Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

7.~~[(g)]~~ Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

8.~~[(h)]~~ Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a.~~[1.]~~ The property consists of the final printed product, or copy from which the printed product is produced; and

b.~~[2.]~~ The corporation has no individuals receiving compensation in this state as provided in KRS 141.901;

9.~~[(i)]~~ Public service corporations subject to tax under KRS 136.120;

10.~~[(j)]~~ Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

11.~~[(k)]~~ Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

12.~~[(l)]~~ An alcohol production facility as defined in KRS 247.910;

13.~~[(m)]~~ Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;

14.~~[(n)]~~ Regulated investment companies as defined in Section 851 of the Internal Revenue Code;

15.~~[(o)]~~ Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

16.~~[(p)]~~ Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;

17.~~[(q)]~~ Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or

18.~~[(r)]~~ Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least

eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership***; and***

(b) For taxable years beginning on or after January 1, 2021:

1. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

2. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

3. Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

4. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a. The property consists of the final printed product, or copy from which the printed product is produced; and

b. The corporation has no individuals receiving compensation in this state as provided in KRS 141.901;

5. Public service corporations subject to tax under KRS 136.120;

6. Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

7. Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

8. An alcohol production facility as defined in KRS 247.910;

9. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;

10. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;

11. Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

12. Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;

13. Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or

14. Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.

(7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) ***and (b)***~~[to (r)]~~ of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.

(b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.

(c) Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.

(d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

(8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

➔Section 14. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the Department of Revenue is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the Department of Revenue, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.

(3) The following shall apply only when the Department of Revenue is acting as tax collector under the authority of KRS 160.627(2):

(a) When the department is initially requested to be the tax collector under KRS 160.627(2), the department shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the department ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the department. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the department has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the department.

(b) The Department of Revenue shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the department in collecting the excise tax. The expenses, which shall be deducted by the Department of Revenue from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the department to school districts on a basis proportionate to the number of returns processed by the Department of Revenue for each district compared to the total processed by the Department of Revenue for all districts.

(c) All funds received by the department under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the department for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The department may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the Department of Revenue to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580***(6)*** ~~[(5)]~~, and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580***(7)*** ~~[(6)]~~, within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the department is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982, any school district which requests the department to collect taxes under the authority of KRS 160.627(2) shall inform the department of this request not less than one hundred fifty (150) days prior to January 1.

(g) The department shall not be required to collect taxes authorized in KRS 160.621 of an individual when the department is not pursuing collection of that individual's state income taxes. The department shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the Department of Revenue with respect to the performance of its duties under KRS 160.621.

➔Section 15. KRS 141.206 is amended to read as follows:

(1) Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.

(2) Pass-through entities shall determine net income in the same manner as in the case of an individual under KRS 141.010 and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required for S corporations by KRS 141.040.

(4) (a) Every pass-through entity required to file a return under subsection (1) of this section, except publicly traded partnerships as defined in KRS 141.0401(6)***(a)18. and (b)14.***[~~(r)~~], shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each:

1. Nonresident individual partner, member, or shareholder; and

2. Corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity.

(b) Withholding shall be at the maximum rate provided in KRS 141.020 or 141.040.

(5) (a) Effective for taxable years beginning after December 31, 2011, every pass-through entity required to withhold Kentucky income tax as provided by subsection (4) of this section shall make a declaration and payment of estimated tax for the taxable year if:

1. For a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars ($500); or

2. For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the estimated tax liability can reasonably be expected to exceed five thousand dollars ($5,000).

(b) The declaration and payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.

(6) (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.

(b) An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner. An exemption so revoked shall be reinstated only with permission of the department. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.

(7) In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.

(8) In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection (1) of this section shall take into account:

(a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or

2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (11) of this section; and

(b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.

(9) A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:

(a) 1. For taxable years beginning on or after January 1, 2007, but prior to January 1, 2018, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and

2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and

(b) Credits from the partnership.

(10) (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection (11) of this section.

(b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:

1. Doing business both within and without this state; and

2. A partner or member in another pass-through entity;

then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.

(c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.

(d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection (11) of this section.

(11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in KRS 141.901, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).

(b) For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in KRS 141.120.

(12) Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.

(13) An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.

(14) (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.

(b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.

(15) (a) 1. A pass-through entity may file a composite income tax return on behalf of electing nonresident individual partners, members, or shareholders.

2. The pass-through entity shall report and pay on the composite income tax return income tax at the highest marginal rate provided in this chapter on any portion of the partners', members', or shareholders' pro rata or distributive shares of income of the pass-through entity from doing business in this state or deriving income from sources within this state. Payments made pursuant to subsection (5) of this section shall be credited against any tax due.

3. The pass-through entity filing a composite return shall still make estimated tax payments if required to do so by subsection (5) of this section, and shall remain subject to any penalty provided by KRS 131.180 or 141.990 for any declaration underpayment or any installment not paid on time.

4. The partners', members', or shareholders' pro rata or distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member, or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains and losses, guaranteed payments, and rents.

(b) A nonresident individual partner, member, or shareholder whose only source of income within this state is distributive share income from one (1) or more pass-through entities may elect to be included in a composite return filed pursuant to this section.

(c) A nonresident individual partner, member, or shareholder that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the partner's behalf by the pass-through entity.

(d) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its electing nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require. A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔Section 16. Sections 5, 12, 14, 15, 16, 32, 40, 41, 48, and 60 of HB 354/EN (2019 Ky. Acts ch. 151) as enacted by the 2019 General Assembly are hereby repealed and shall not be codified by the Reviser of Statutes.

Signed by Governor April 9, 2019.

CHAPTER 197

(SB 162)

AN ACT relating to schools.

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

➔Section 1. KRS 158.441 is amended to read as follows:

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

(1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs;

(2) ***"Kentucky State Police school resource officer" or "KSPSRO" means a Kentucky State Police officer, CVE R Class, or Trooper R Class, as defined in KRS 16.010, who is employed by a school district as a school resource officer, as defined in this section, through a contract as secondary employment for the officer;***

(3) "School activities" means official school functions held on school property, including student attendance days as defined in KRS 158.070, athletic events, and graduation;

(4) "School property" means any public school building, public school vehicle, public school campus, grounds, recreational area, or athletic field in the charge of the school district;

(5) "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed:

(a) Through a contract between a local law enforcement agency and a school district; or

(b) Through a contract as secondary employment for an officer, as defined in KRS 16.010, between the Department of Kentucky State Police and a school district; and

(6)~~[(3)]~~ "School security officer" means a person employed by a local board of education who has been appointed a special law enforcement officer pursuant to KRS 61.902 and who has specialized training to work with youth at a school site.

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

(1) A KSPSRO shall possess sworn law enforcement authority and shall be trained in school-based policing and crisis response including all training required of school resource officers. If a school district decides to utilize a KSPSRO, the school district and the officer shall first enter into a memorandum of understanding that clarifies the purpose of the KSPSRO program and the roles and expectations of the participating entities. Any contract entered into pursuant to this subsection shall include:

(a) A provision specifying that the KSPSRO shall follow the policies and procedures of the Department of Kentucky State Police and shall abide by federal, state, and local laws. The responsibility and decision to arrest or take other police action lies solely with the KSPSRO, respective to state law and the KSPSRO's departmental standard operating procedures or standing order. The KSPSRO's continual collaboration with school personnel and his or her understanding of each student's needs may impact the decision to arrest or take other police action, but the responsibility is that of the KSPSRO;

(b) A provision stipulating that the KSPSRO shall be an employee of the school district, but shall revert to Department of Kentucky State Police employee status during such time that the KSPSRO takes police action pursuant to state or federal law. The KSPSRO shall be under the immediate supervision and direction of the Department of Kentucky State Police when taking police action;

(c) A provision stipulating that the school district shall be responsible for worker's compensation coverage for the KSPSRO; and

(d) A provision detailing how liability coverage will be provided for any acts or omissions of the KSPSRO within the scope of his or her duties.

(2) (a) A KSPSRO shall promote the safety and security of students and school personnel during school activities and on school property.

(b) A KSPSRO may assist with supportive activities and programs, including but not limited to:

1. Planning and implementing procedures that train and drill all school personnel to respond to crisis events, control access to the school property during the school day, and close or partially close the school property after students arrive;

2. Identifying risk and protective factors of students; and

3. Coordinating nurturing intervention and prevention efforts.

(c) A KSPSRO shall not address school discipline issues that do not constitute crimes or that do not impact the immediate health or safety of the students or school personnel.

(d) A KSPSRO shall not administer formal school discipline such as detentions, suspensions, or expulsions. These decisions are the sole responsibility of school personnel.

(3) Notwithstanding KRS Chapter 11A, the KSPSRO shall wear the uniform and utilize the vehicles, firearms, ammunition, and equipment issued to him or her by the Department of Kentucky State Police or other agency-authorized clothing or equipment. In the event additional weapons or gear is utilized than that which is carried on his or her person, the storage of these items shall be defined by the Department of Kentucky State Police. If a vehicle or equipment is damaged during the scope of a KSPSRO's secondary employment with the school district, but not while the KSPSRO is engaged in police action, the school district is responsible for restitution to the Department of Kentucky State Police.

(4) Notwithstanding subsection (2) of this section, a KSPSRO shall be deemed an employee of the Department of Kentucky State Police for all purposes whenever engaged in any police action, including arrests, searches and seizures, uses of force, issuing citations, serving warrants, pursuing suspects, or investigating criminal offenses or vehicle accidents.

(5) Nothing in this section shall be construed to require the Department of Kentucky State Police to assign or provide funding for KSPSROs.

(6) Nothing in this section shall be deemed to waive or otherwise limit the rights, privileges, immunities, and matters of defense, now available or hereafter made available, to school districts, the Department of Kentucky State Police, any local law enforcement agency, any KSPSRO, or any school resource officer in any suit brought against them in consequence of acts or omissions.

➔Section 3. KRS 16.505 is amended to read as follows:

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

(1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

(8) "Creditable compensation":

(a) Except as provided by paragraph (b) or (c) of this subsection, means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the

employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000);

2. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

3. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and

4. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Uniform, equipment, or any other expense allowances paid on or after January 1, 2019, living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;~~[and]~~

2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; ***and***

3. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by Section 1 of this Act;

(9) "Final compensation" means:

(a) For a member who begins participating prior to September 1, 2008, who retires prior to January 1, 2019, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or

(b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, or for a member who begins participating prior to September 1, 2008, who retires on or after January 1, 2019, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for

seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;

(15) "Normal retirement date" means:

(a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or

(b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;

(16) "Disability retirement date" means the first day of the month following the last day of paid employment;

(17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22) . Solely in the case of a member who dies as a direct result of an act in line of duty as defined in this section or who dies as a result of a duty-related injury as defined in KRS 61.621, "dependent child" also means a naturally or legally adopted disabled child of the member, regardless of the child's age, if the child has been determined to be eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability;

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means:

(a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or

(b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;

(34) "Month" means a calendar month;

(35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;

(36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;

(37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

(38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

(39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583;~~[and]~~

(40) "Accumulated account balance" means:

(a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or

(b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit; and

(41) "Monthly average pay" means the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment.

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

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

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, or investment returns earned as provided by KRS 61.5956, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon or investment returns earned as provided by KRS 61.5956. "Accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

(13) "Creditable compensation":

(a) Except as provided by paragraph (b) or (c) of this subsection, means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000);

2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;

3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and

5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Uniform, equipment, or any other expense allowances paid on or after January 1, 2019, living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;

2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;

3. For employees participating in a nonhazardous position who began participating prior to September 1, 2008, and who retire after July 1, 2023, lump-sum payments for compensatory time upon termination of employment; ~~[and]~~

4. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; ***and***

5. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by Section 1 of this Act;

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

(a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive, except that for members retiring on or after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If the number of months of service credit during the five (5) year period is less than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or more additional fiscal years shall be used. If a member retiring on or after January 1, 2019, does not have five (5) complete fiscal years that

each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;

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

(c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, and who retired prior to January 1, 2019, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or

(e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, or for a member who begins participating prior to September 1, 2008, who is employed in a hazardous position as provided in KRS 61.592, who retires on or after January 1, 2019, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

(28) "Level dollar amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability that is set as an equal dollar amount over the remaining amortization period as of the actuarial valuation date. Under this method, the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the amortization period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;

(35) "Month" means a calendar month;

(36) "Membership date" means:

(a) The date upon which the member began participating in the system as provided in KRS 61.543; or

(b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);

(37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;

(38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

(39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

(40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;

(41) "Accumulated account balance" means:

(a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions;

(b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit; or

(c) For nonhazardous members who are participating in the 401(a) money purchase plan as provided by KRS 61.5956, the combined sum of the member's accumulated contribution and the member's accumulated employer contribution in the 401(a) money purchase plan;

(42) "Volunteer" means an individual who:

(a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and

(b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;

(43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars ($500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars ($500) per month maximum provided by this subsection;

(44) "Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position;

(45) "Accumulated employer contribution" means the employer contribution deposited to the member's account and any investment returns on such amounts as provided by KRS 61.5956; and

(46) "Monthly average pay" means the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment.

➔Section 5. KRS 78.510 is amended to read as follows:

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

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited, or investment returns earned as provided by KRS 61.5956, on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon or investment returns earned as provided by KRS 61.5956. "Accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

(13) "Creditable compensation":

(a) Except as provided by paragraph (b) or (c) of this subsection, means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000);

2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;

3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and

5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Uniform, equipment, or any other expense allowances paid on or after January 1, 2019, living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board;

2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;

3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279;

4. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer;~~[and]~~

5. For employees who are employed in a nonhazardous position, who began participating prior to September 1, 2008, and who retire after July 1, 2023, lump-sum payments for compensatory time upon termination of employment; ***and***

6. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by Section 1 of this Act;

(14) "Final compensation" means:

(a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive, except that for members retiring on or after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If the number of months of service credit during the five (5) year period is less than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or more additional fiscal years shall be used. If a member retiring on or after January 1, 2019, does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;

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

(c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, and who retired prior to January 1, 2019, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;

(d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or

(e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, or for a member who begins participating prior to September 1, 2008, who is employed in a hazardous position as provided in KRS 61.592, who retires on or after January 1, 2019, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;

(d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or

(e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;

(32) "Month" means a calendar month;

(33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;

(34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;

(35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

(36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

(37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;

(38) "Accumulated account balance" means:

(a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions;

(b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit; or

(c) For nonhazardous members who are participating in the 401(a) money purchase plan as provided by KRS 61.5956, the combined sum of the member's accumulated contributions and the member's accumulated employer contributions in the 401(a) money purchase plan;

(39) "Volunteer" means an individual who:

(a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and

(b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;

(40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars ($500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars ($500) per month maximum provided by this subsection;

(41) "Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position;

(42) "Accumulated employer contribution" means the employer contribution deposited to the member's account and any investment returns on such amounts as provided by KRS 61.5956; and

(43) "Monthly average pay" means the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO READ AS FOLLOWS:

(1) The chief state school officer shall not approve the plans and specifications for a new public school building contemplated by a board of education or for any addition or alteration of old buildings, as required by KRS 162.060, unless the plans and specifications provide for:

(a) A minimum of two (2) water bottle filling stations in each school;

(b) A minimum of one (1) drinking fountain or water bottle filling station on each floor and wing of each school building; and

(c) A minimum of one (1) drinking fountain or water bottle filling station for every seventy-five (75) students projected to attend the school upon completion of the proposed construction.

(2) Any water bottle filling station installed in a public school building shall:

(a) Dispense filtered, clean drinking water;

(b) Be regularly cleaned and maintained; and

(c) If there is no drinking fountain on the same floor and wing as the water bottle filling station, be accompanied by a cup dispenser.

(3) Any drinking fountain installed in a public school building shall:

(a) Be equipped with a protective cowl;

(b) Be equipped with a water spout at least one (1) inch above the overflow rim of the drinking fountain;

(c) Dispense filtered, clean drinking water; and

(d) Be regularly cleaned and maintained.

➔Section 7. Whereas the General Assembly hereby finds, determines, and declares that Sections 1 through 5 of this Act are necessary for the immediate preservation of public peace, health, and safety, an emergency is declared to exist and Sections 1 through 5 of this Act take effect upon the Act's passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 9, 2019.

CHAPTER 198

(HB 11)

AN ACT relating to student health.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Alternative nicotine product" has the same meaning as in KRS 438.305;

(b) "Tobacco product" has the same meaning as in KRS 438.305; and

(c) "Vapor product" has the same meaning as in KRS 438.305.

(2) The use of any tobacco product, alternative nicotine product, or vapor product:

(a) Shall be prohibited for all persons and at all times on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education;

(b) Shall be prohibited for all students while attending or participating in any school-related student trip or student activity; and

(c) Shall be prohibited for school district employees, volunteers, and all other individuals affiliated with a school while the user is attending or participating in any school-related student trip or student activity and is in the presence of a student or students.

(3) On or before July 1, 2020, each local board of education shall implement this section by adopting written policies that prohibit the use of tobacco products, alternative nicotine products, and vapor products pursuant to this section. The policies shall provide for:

(a) Adequate notice regarding the policy to be provided to students, parents and guardians, school employees, and the general public;

(b) A requirement to post signage on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by a local board of education, clearly stating that use of tobacco products, alternative nicotine products, and vapor products is prohibited at all times and by all persons on or in the property; and

(c) A requirement that school employees enforce the policies.

(4) A person in violation of subsection (2) of this section, or policies adopted by a local board of education pursuant to subsection (3) of this section, shall be subject to penalties as set forth by the local board of education.

(5) Nothing in this section shall be interpreted or construed to:

(a) Permit use of a tobacco product, alternative nicotine product, or vapor product, where it is otherwise restricted by this section, other state or federal law, administrative regulation, or executive order;

(b) Prevent a local board of education or any other local governmental entity from adopting local ordinances, regulations, or policies relating to use of a tobacco product, alternative nicotine product, or a vapor product, in public places of employment, and nonenclosed areas, that are more restrictive than what is provided for in this section; or

(c) Repeal any existing local ordinances, regulations, or policies that provide restrictions on the use of a tobacco product, alternative nicotine product, or vapor product, in addition to those provided for in this section.

(6) Each local board of education may choose, up to three (3) years after the effective date of this Act, to opt out of subsections (2) to (4) of this section.

➔Section 2. KRS 438.050 is amended to read as follows:

(1) Any person, except adult employees of the school system who smoke in a room on the school premises designated by the superintendent or principal for the purpose, who ~~[smokes]~~***uses alternative nicotine products,*** tobacco products***, or vapor products*** in any school building or any part of any building used for school purposes, or upon school grounds, while children are assembled there for lawful purposes, except in areas in secondary schools designated and supervised by the superintendent or principal for the purpose, shall be fined not less than one dollar ($1) nor more than five dollars ($5).

(2) The exception granted for smoking areas designated by the superintendent or principal shall extend to all schools.

Signed by Governor April 9, 2019.

CHAPTER 199

(SB 175)

AN ACT relating to public school assessments and accountability.

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

➔Section 1. KRS 158.6453 is amended to read as follows:

(1) As used in this section:

(a) "Accelerated learning" means an organized way of helping students meet individual academic goals by providing direct instruction to eliminate student performance deficiencies or enable students to move more quickly through course requirements and pursue higher level skill development;

(b) "Constructed-response items" or "performance-based items" means individual test items that require the student to create an answer rather than select a response and may include fill-in-the-blank, short-answer, extended-answer, open-response, and writing-on-demand formats;

(c) "Criterion-referenced test" means a test that is aligned with defined academic content standards and measures an individual student's level of performance against the standards;

(d) "End-of-course examination" means the same as defined in KRS 158.860;

(e) "Formative assessment" means a process used by teachers and students during instruction to adjust ongoing teaching and learning to improve students' achievement of intended instructional outcomes. Formative assessments may include the use of commercial assessments, classroom observations, teacher-designed classroom tests and assessments, and other processes and assignments to gain information about individual student learning;

(f) "Interim assessments" means assessments that are given periodically throughout the year to provide diagnostic information and to show individual student performance against content standards;

(g) "Summative assessment" means an assessment given at the end of the school year, semester, or other period of time to evaluate students' performance against content standards within a unit of instruction or a course; and

(h) "Writing" means a purposeful act of thinking and expression that uses language to explore ideas and communicate meaning to others. Writing is a complex, multifaceted act of communication.

(2) (a) Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a process for reviewing Kentucky's academic standards and the alignment of corresponding assessments for possible revision or replacement to ensure alignment with ***transition*** ~~[postsecondary]~~ readiness standards necessary for global competitiveness and with state career and technical education standards.

(b) The revisions to the content standards shall:

1. Focus on critical knowledge, skills, and capacities needed for success in the global economy;

2. Result in fewer but more in-depth standards to facilitate mastery learning;

3. Communicate expectations more clearly and concisely to teachers, parents, students, and citizens;

4. Be based on evidence-based research;

5. Consider international benchmarks; and

6. Ensure that the standards are aligned from elementary to high school to postsecondary education so that students can be successful at each education level.

(c) 1. The department shall establish four (4) standards and assessments review ~~[and development]~~ committees, with each committee composed of a minimum of six (6) Kentucky public school teachers and a minimum of two (2) representatives from Kentucky institutions of higher education, including at least one (1) representative from a public institution of higher education. Each committee member shall teach in the subject area that his or her committee is assigned to review and have no prior or current affiliation with a curriculum or assessment resources vendor.

2. One (1) of the four (4) committees shall be assigned to focus on the review of language arts and writing academic standards and assessments, one (1) on the review of mathematics academic

standards and assessments, one (1) on the review of science academic standards and assessments, and one (1) on the review of social studies academic standards and assessments.

(d) 1. The department shall establish twelve (12) advisory panels to advise and assist each of the four (4) standards and assessments review~~[and development]~~ committees.

2. Three (3) advisory panels shall be assigned to each standards and assessments review~~[and development]~~ committee. One (1) panel shall review the standards and assessments for kindergarten through grade five (5), one (1) shall review the standards and assessments for grades six (6) through eight (8), and one (1) shall review the standards and assessments for grades nine (9) through twelve (12).

3. Each advisory panel shall be composed of at least one (1) representative from a Kentucky institution of higher education and a minimum of six (6) Kentucky public school teachers who teach in the grade level and subject reviewed by the advisory panel to which they are assigned and have no prior or current affiliation with a curriculum or assessment resources vendor.

(e) The commissioner of education and the president of the Council on Postsecondary Education shall also provide consultants for the standards and assessments review~~[and development]~~ committees and the advisory panels who are business and industry professionals actively engaged in career fields that depend on the various content areas.

(f) 1. The standards and assessments process review committee is hereby established and shall be composed of ***the commissioner of education or designee as a nonvoting member and nine (9) voting representatives of public schools, of whom at least two (2) shall be parents of public school students, appointed by the Governor and confirmed by the Senate in accordance with KRS 11.160 as follows***~~[ten (10) members, including]~~:

a. ***One (1) language arts teacher***~~[Three (3) members appointed by the Governor]~~;

b. ***One (1) math teacher***~~[Three (3) members of the Senate appointed by the President of the Senate]~~;

c. ***One (1) science teacher;***~~[Three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and]~~

d. ***One (1) social studies teacher;***

e. Two (2) school principals;

f. Two (2) school superintendents; and

g. One (1) school board member~~[The commissioner of education]~~.

2. ***On making appointments to the committee, the Governor shall ensure broad geographical urban and rural representation and representation of elementary, middle, and high school levels; ensure equal representation of the two (2) sexes, inasmuch as possible; and ensure that appointments reflect the minority racial composition of the Commonwealth.***

3. The review of the committee shall be limited to the procedural aspects of the review process undertaken prior to its consideration.

4. Notwithstanding KRS 12.028, the committee shall not be subject to reorganization by the Governor.

(g) 1. The review process implemented under this subsection shall be an open, transparent process that allows all Kentuckians an opportunity to participate. The department shall ensure the public's assistance in reviewing and suggesting changes to the standards and alignment adjustments to corresponding state assessments by establishing a Web site dedicated to collecting comments by the public and educators. An independent third party, which has no prior or current affiliation with a curriculum or assessment resources vendor, shall be selected by the department to collect and transmit the comments to the department for dissemination to the appropriate advisory panel for review and consideration.

2. Each advisory panel shall review the standards and assessments for its assigned subject matter and grade level and the suggestions made by the public and educators. After completing its review, each advisory panel shall make recommendations for changes to the standards and

alignment adjustments for assessments to the appropriate standards and assessments review~~[and development]~~ committee.

3. Each standards and assessments review~~[and development]~~ committee shall review the findings and make recommendations to revise or replace existing standards and to adjust alignment of assessments~~[to the standards and assessments process review committee]~~.

4. The recommendations shall be published on the Web site established in this subsection for the purpose of gathering additional feedback from the public. The commissioner~~[, on behalf of the standards and assessments process review committee,]~~ shall subsequently present the recommendations and the public feedback to the Interim Joint Committee on Education.

5. The commissioner shall subsequently provide a report to the standards and assessments process review committee summarizing the process conducted under this subsection and the resulting recommendations. The report shall include but not be limited to the timeline of the review process, public feedback, and responses from the Interim Joint Committee on Education.

6. After receiving the commissioner's report, the standards and assessments process review committee shall either concur that stakeholders have had adequate opportunity to provide input on standards and the corresponding alignment of state assessments or find the input process deficient. If the process is found deficient, the recommendations may be returned to the appropriate standards and assessments review~~[and development]~~ committee for review as described in subparagraph 3. of this paragraph. If the process is found sufficient, the recommendations shall be forwarded without amendment to the Kentucky Board of Education.

(h) The Kentucky Board of Education shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the review process, including staggering the timing and sequence of the review process by subject area and remuneration of the review~~[and development]~~ committees and advisory panels described in paragraphs (c) and (d) of this subsection.

(i) 1. The Kentucky Board of Education shall consider for approval the revisions to academic standards for a content area and the alignment of the corresponding state assessment once recommendations are received from the standards and assessments process review committee. Existing state academic standards shall remain in place until the board approves new standards.

2. Any revision to, or replacement of, the academic standards and assessments as a result of the review process conducted under this subsection shall be implemented in Kentucky public schools no later than the second academic year following the review process. Existing academic standards shall be used until new standards are implemented.

3. The Department of Education shall disseminate the academic content standards to the schools and teacher preparation programs.

(j) The Department of Education shall provide or facilitate statewide training sessions for existing teachers and administrators on how to:

1. Integrate the revised content standards into classroom instruction;

2. Better integrate performance assessment of students within their instructional practices; and

3. Help all students use higher-order thinking and communication skills.

(k) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on Postsecondary Education shall coordinate information and training sessions for faculty and staff in all of the teacher preparation programs in the use of the revised academic content standards. The Education Professional Standards Board shall ensure that each teacher preparation program includes use of the academic standards in the pre-service education programs and that all teacher interns will have experience planning classroom instruction based on the revised standards.

(l) The Council on Postsecondary Education in cooperation with the Kentucky Department of Education and the postsecondary education institutions in the state shall coordinate information sessions regarding the academic content standards for faculty who teach in the various content areas.

(3) (a) The Kentucky Board of Education shall be responsible for creating and implementing a balanced statewide assessment program that measures the students', schools', and districts' achievement of the

goals set forth in KRS 158.645 and 158.6451, to ensure compliance with the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, and to ensure school accountability.

(b) The board shall revise the annual statewide assessment program as needed in accordance with revised academic standards and corresponding assessment alignment adjustments approved by the board under subsection (2) of this section.

(c) The statewide assessments shall not include any academic standards not approved by the board under subsection (2) of this section.

(d) The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; the Education Assessment and Accountability Review Subcommittee, and the National Technical Advisory Panel on Assessment and Accountability in the development of the assessment program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

(4) (a) The academic components of the statewide assessment program shall be composed of annual student summative tests, which may include a combination of multiple competency-based assessment and performance measures approved by the Kentucky Board of Education.

(b) The annual student summative tests shall:

1. Measure individual student achievement in language, reading, English, mathematics, science, and social studies at designated grades;

2. Provide teachers and parents a valid and reliable comprehensive analysis of skills mastered by individual students;

3. Provide diagnostic information that identifies strengths and academic deficiencies of individual students in the content areas;

4. Provide information to teachers that can enable them to improve instruction for current and future students;

5. Provide longitudinal profiles for students; and

6. Ensure school and district accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451, except the statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

(5) The state student assessments shall include the following components:

(a) Elementary and middle grades requirements are:

1. A criterion-referenced test each in mathematics and reading in grades three (3) through eight (8) that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards;

2. A criterion-referenced test each in science and social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards to be administered one (1) time within the elementary and middle grades, respectively;

3. An on-demand assessment of student writing to be administered one (1) time within the elementary grades and one (1) time within the middle grades; and

4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the elementary and the middle grades, respectively;

(b) High school requirements are:

1. A criterion-referenced test in mathematics, reading, and science that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards to be administered one (1) time within the high school grades;

2. A criterion-referenced test in social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards to be administered one (1) time within the high school grades;

3. An on-demand assessment of student writing to be administered one (1) time within the high school grades;

4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the high school grades; and

5. A college admissions examination to assess English, reading, mathematics, and science in the spring of grade ten (10) and the spring of grade eleven (11);

(c) The Kentucky Board of Education shall add any other component necessary to comply with the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, as determined by the United States Department of Education;

(d) The criterion-referenced components required in this subsection shall be composed of constructed response items and multiple choice items;

(e) The Kentucky Board of Education may incorporate end-of-course examinations into the assessment program to be used in lieu of requirements for criterion-referenced tests required under paragraph (b) of this subsection; and

(f) The results of the assessment program developed under this subsection shall be used by schools and districts to determine appropriate instructional modifications for all students in order for students to make continuous progress, including that needed by advanced learners.

(6) Each school district shall administer the statewide student assessment during the last fourteen (14) days of school in the district's instructional calendar. The Kentucky Board of Education may change the testing window to allow for innovative assessment systems or other online test administration and shall promulgate administrative regulations that minimize the number of days of testing and outline the procedures to be used during the testing process to ensure test security, including procedures for testing makeup days, and to comply with federal assessment requirements.

(7) A student enrolled in a district-operated or district-contracted alternative program shall participate in the appropriate assessments required by this section.

(8) A local school district may select and use commercial interim or formative assessments or develop and use its own formative assessments to provide data on how well its students are growing toward mastery of Kentucky academic standards, so long as the district's local school board develops a policy minimizing the reduction in instructional time related to the administration of the interim assessments. Nothing in this section precludes teachers from using ongoing teacher-developed formative processes.

(9) Each school that enrolls primary students shall use diagnostic assessments and prompts that measure readiness in reading and mathematics for its primary students as determined by the school to be developmentally appropriate. The schools may use commercial products, use products and procedures developed by the district, or develop their own diagnostic procedures. The results shall be used to inform the teachers and parents or guardians of each student's skill level.

(10) The state board shall ensure that a technically sound longitudinal comparison of the assessment results for the same students shall be made available.

(11) The following provisions shall apply to the college admissions examinations described in subsection (5)(b)5. of this section:

(a) The cost of both college admissions examinations administered to students in high school shall be paid for by the Kentucky Department of Education. The costs of additional college admissions examinations shall be the responsibility of the student;

(b) If funds are available, the Kentucky Department of Education shall provide a college admissions examination preparation program to all public high school juniors. The department may contract for necessary services; and

(c) Accommodations provided to a student with a disability taking the college admissions assessments under this subsection shall consist of:

1. Accommodations provided in a manner allowed by the college admissions assessment provider when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in subparagraph 2. of this paragraph; or

2. Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under subparagraph 1. of this paragraph when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.

(12) Kentucky teachers shall have a significant role in ***providing feedback about*** the design of the assessments, except for the college admissions exams described in subsection (5)(b)5. of this section. The assessments shall be designed to:

(a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application;

(b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable;

(c) Minimize the time spent by teachers and students on assessment; and

(d) Assess Kentucky academic standards only.

(13) The results from assessment under subsections (3) and (5) of this section shall be reported to the school districts and schools no later than seventy-five (75) days following the last day the assessment can be administered. Assessment reports provided to the school districts and schools shall include an electronic copy of an operational subset of test items from each assessment administered to their students and the results for each of those test items by student and by school.

(14) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

(15) The Department of Education and the state board shall offer optional assistance to local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.

(16) The Administration Code for Kentucky's Assessment Program shall include prohibitions of inappropriate test preparation activities by school district employees charged with test administration and oversight, including but not limited to the issue of teachers being required to do test practice in lieu of regular classroom instruction and test practice outside the normal work day. The code shall include disciplinary sanctions that may be taken toward a school or individuals.

(17) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:

(a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and information on electronic access to a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:

1. Student academic achievement, including the results from each of the assessments administered under this section;

2. For Advanced Placement, Cambridge Advanced International, and International Baccalaureate, the courses offered, the number of students enrolled, completing, and taking the examination for each course, and the percentage of examinees receiving a score of three (3) or better on AP

examinations, a score of "e" or better on Cambridge Advanced International examinations, or a score of five (5) or better on IB examinations. The data shall be disaggregated by gender, race, students with disabilities, and economic status;

3. Nonacademic achievement, including the school's attendance, retention, graduation rates, and student transition to postsecondary;

4. School learning environment, including measures of parental involvement; and

5. Any other school performance data required by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor;

(b) An individual student report to parents for each student in grades three (3) through eight (8) summarizing the student's skills in reading, science, social studies, and mathematics. The school's staff shall develop a plan for accelerated learning for any student with identified deficiencies or strengths; and

(c) A student's highest scores on the college admissions assessments administered under subsection (5)(b)5. of this section.

(18) (a) Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a comprehensive process for reviewing and revising the academic standards in visual and performing arts and practical living skills and career studies for all levels and in foreign language for middle and high schools. The department shall develop review committees for the standards for each of the content areas that include representation from certified specialist public school teachers and postsecondary teachers in those subject areas.

(b) The academic standards in practical living skills for elementary, middle, and high school levels shall include a focus on drug abuse prevention, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, such as heroin and synthetic drugs.

(c) The department shall provide to all schools guidelines for programs that incorporate the adopted academic standards in visual and performing arts and practical living and career studies. The department shall provide to middle and high schools guidelines for including a foreign language program. The guidelines shall address program length and time, courses offered, staffing, resources, and facilities.

(d) The Kentucky Department of Education, in consultation with certified public school teachers of visual and performing arts, may develop program standards for the visual and performing arts.

(19) The Kentucky Department of Education shall provide to all schools guidelines for including an effective writing program within the curriculum. Each school-based decision making council or, if there is no school council, a committee appointed by the principal, shall adopt policies that determine the writing program for its school and submit it to the Department of Education for review and comment. The writing program shall incorporate a variety of language resources, technological tools, and multiple opportunities for students to develop complex communication skills for a variety of purposes.

(20) (a) The Kentucky Department of Education, in consultation with the review committees described in subsection (18) of this section, shall develop a school profile report to be used by all schools to document how they will address the adopted academic standards in their implementation of the programs as described in subsection (18) of this section, which may include student opportunities and experiences in extracurricular activities. The department shall include the essential workplace ethics program on the school profile report.

(b) By October 1 of each year, each school principal shall complete the school profile report, which shall be signed by the members of the school council, or the principal if no school council exists, and the superintendent. The report shall be electronically transmitted to the Kentucky Department of Education, and the original shall be maintained on file at the local board office and made available to the public upon request. The department shall include a link to each school's profile report on its Web site.

(c) If a school staff member, student, or a student's parent has concerns regarding deficiencies in a school's implementation of the programs described in subsection (18) of this section, he or she may submit a written inquiry to the school council.

➔Section 2. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) The Kentucky Board of Education shall create an accountability system to classify districts and schools in accordance with the academic standards and student assessment program developed pursuant to KRS 158.6453.

(b) The accountability system shall include:

1. An annual overall summative performance evaluation of each school and district compared to goals established by the Kentucky Department of Education. The evaluation for each school and district shall:

a. Not consist of a single summative numerical score that ranks schools against each other; and

b. Be based on a combination of academic and school quality indicators and measures, with greater weight assigned to the academic measures;

2. Student assessment results;

3. Progress toward achieving English proficiency by limited English proficiency students;

4. Quality of school climate and safety;

5. High school graduation rates;

6. Postsecondary readiness for each high school student, which shall be included as an academic indicator, and shall be measured by:

a. Meeting or exceeding a college readiness benchmark score on the college admissions examination used as the statewide assessment in KRS 158.6453(5)(b)5 ***or a college placement examination approved by the Council on Postsecondary Education***. The college readiness benchmark score shall be established by the Council on Postsecondary Education; or

b. Achievement of college credit, postsecondary articulated credit, apprenticeship time toward a credential or associate degree, or any industry-recognized certifications, licensures, or credentials, with more weight in accountability for industry-recognized certifications, licensures, or credentials identified as high demand in accordance with the process described in paragraph (c) of this subsection. Eligible industry-recognized certifications, licensures, or credentials shall not be limited to those earned in conjunction with a minimum sequence of courses. Each high school shall publicly report the credits, hours, and credentials on an annual basis; and

7. Any other factor mandated by the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor.

(c) Based on data from the Kentucky Center for Education and Workforce Statistics, each local workforce investment board, in conjunction with local economic development organizations from its state regional sector, shall annually compile a list of industry-recognized certifications, licensures, and credentials specific to the state and regional workforce area, rank them by demand for the state and regional area, and provide the list to the Kentucky Workforce Innovation Board. The Kentucky Workforce Innovation Board, in conjunction with the Kentucky Department of Education, may revise the lists before the Kentucky Department of Education disseminates the lists to all school districts to be used as postsecondary readiness indicators.

(d) 1. The Kentucky Department of Education shall pay for the cost of an assessment taken by a high school student for attaining an industry-recognized certification, credential, or licensure if the student consecutively completes at least two (2) related career pathway courses approved by the department prior to taking the assessment.

2. If a high school student has not completed the two (2) course requirement described in subparagraph 1. of this paragraph but meets performance-based experience eligibility and passes an assessment, the department shall provide a weighted reimbursement amount to the school district for the cost of the assessment based on the level of demand of the certificate, credential, or license earned. The Kentucky Board of Education shall promulgate regulations establishing

the performance-based experience eligibility requirements and weighted reimbursement amounts.

(e) Prior to promulgating administrative regulations to revise the accountability system, the board shall seek advice from the School Curriculum, Assessment, and Accountability Council; the Office of Education Accountability; the Education Assessment and Accountability Review Subcommittee; and the National Technical Advisory Panel on Assessment and Accountability.

(2) A student's test scores shall be counted in the accountability measure of:

(a) 1. The school in which the student is currently enrolled if the student has been enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; or

2. The school in which the student was previously enrolled if the student was enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; and

(b) The school district if the student is enrolled in the district for at least a full academic year as defined by the Kentucky Board of Education; and

(c) The state if the student is enrolled in a Kentucky public school prior to the beginning of the statewide testing period.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish more rigorous action, intervention, and appropriate consequences for schools that fail to exit comprehensive support and improvement status described in KRS 160.346. The consequences shall be designed to improve the academic performance and learning environment of identified schools and may include but not be limited to:

(a) A review and audit process to determine the appropriateness of a school's or district's classification and to recommend needed assistance;

(b) School and district improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff; and

(e) Observation of school personnel.

(4) All students who drop out of school during a school year shall be included in a school's annual average school graduation rate calculation.

(5) After receiving the advice of the Education Assessment and Accountability Review Subcommittee, the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a three (3) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when one (1) or more schools in the district fail to exit comprehensive support and improvement status after three (3) consecutive years of implementing the turnaround intervention process described in KRS 160.346.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the three (3) year assessment period which are beyond the control of the school.

➔Section 3. KRS 160.346 is amended to read as follows:

(1) For purposes of this section:

(a) "Department" means the Kentucky Department of Education;

(b) "ESSA" means the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor;

(c) "Level" means elementary, middle, or high school;

(d) "Turnaround" means a comprehensive transformation of a school to achieve accelerated, meaningful, and sustainable increases in student achievement through improved school leadership and school district support;

(e) "Turnaround plan" means a mandatory school plan that is designed to improve student learning and performance with evidence-based interventions as defined in ESSA and that is developed and implemented by the local school district in partnership with stakeholders, including the principal, other school leaders, teachers, and parents; and

(f) "Turnaround team" means the turnaround training and support team selected by the local board of education as described in subsection (7)(a) of this section.

(2) (a) ~~[Beginning with the 2018-2019 school year, or upon implementation of the provisions of ESSA by the department, whichever occurs first, the department shall identify a school for targeted support and improvement if the school has at least one (1) subgroup, as defined by ESSA, whose performance in the state accountability system by level is at or below the summative performance of all students, based on school performance, in any of the lowest-performing five percent (5%) of all schools.~~

~~(b)]~~Beginning with the 2019-2020 school year, ***and annually thereafter***~~[or upon the second year of the implementation of the provisions of ESSA by the department, whichever occurs first]~~, the department shall identify a school for targeted support and improvement if the school has at least one (1) subgroup, as defined by ESSA, whose performance in the state accountability system by level is at or below that of all students~~[, based on school performance,]~~ in any of the lowest-performing ***five percent (5%)***~~[ten percent (10%)]~~ of all schools for ***three (3)***~~[two (2)]~~ consecutive years ***and the school is in the lowest-performing ten percent (10%) of all schools by level***.

(b) Beginning with the 2020-2021 school year, and every three (3) years thereafter, the department shall identify a school for additional targeted support and improvement if the school has at least one (1) subgroup, as defined by ESSA, whose performance in the state accountability system by level is at or below the summative performance of all students in any of the lowest-performing five percent (5%) of all schools identified under subsection (3)(a) of this section and has been identified for targeted support and improvement as described in paragraph (a) of this subsection.

(3) Beginning with the 2018-2019 school year, or upon the department's implementation of the provisions of ESSA, whichever occurs first, a school shall be identified by the department for comprehensive support and improvement if the school is:

(a) In the lowest-performing five percent (5%) of all schools in its level based on the school's performance in the state accountability system;

(b) A high school with a four (4) year cohort graduation rate that is less than eighty percent (80%); or

(c) Identified by the department for targeted support and improvement under subsection (2)***(b)***~~[(a)]~~ of this section and fails to exit targeted support and improvement status based on criteria established under subsection (9) of this section.

(4) (a) When a school is identified for targeted support and improvement, the local school personnel, working with stakeholders, including the principal, other school leaders, teachers, and parents, shall revise its school improvement plan, which shall be subject to review and approval by the local board of education.

(b) Each revised plan shall be informed by all available indicators, including student performance compared to long-term goals, and shall include:

1. Components of turnaround leadership development and support;

2. Identification of critical resource inequities;

3. Evidence-based interventions; and

4. Additional actions that address the causes of consistently underperforming subgroups of students.

(c) If adequate performance progress, as defined by the department, is not made:

1. By a school identified under subsection (2)(b) of this section, the local school district shall take additional action to assist and support the school in reaching performance goals; and

2. By a school identified under subsection (2)(a) of this section, the school shall be identified for comprehensive support and improvement.

(5) (a) When a school is identified for comprehensive support and improvement, an audit shall be performed. The local board of education shall select a turnaround audit team with documented expertise in diagnosing the causes of an organization's low performance and providing advice and strategies resulting in effective turnaround leadership. The audit team shall not include any of the district's employees.

(b) If the local board determines no suitable audit teams are available, the board shall select the department to perform the audit.

(c) The Kentucky Board of Education shall recommend criteria to the local board of education for a review process that a turnaround audit team may utilize to assess the turnaround leadership capacity of the principal, superintendent, and district.

(d) The audit conducted under this subsection shall be the only comprehensive audit required for a school unless the school fails to exit comprehensive support and improvement status as described in subsection (10) of this section or exits comprehensive support and improvement status but subsequently repeats as a school identified for comprehensive support and improvement.

(6) (a) An audit team established under subsection (5) of this section to audit a school identified for comprehensive support and improvement shall include in the review and report:

1. A diagnosis of the causes of the school's low performance, with an emphasis on underperforming subgroups of students and corresponding critical resource inequities;

2. An assessment and recommendation to the superintendent regarding the principal's capacity to function or develop as a turnaround specialist, including if the principal should be reassigned to a comparable position in the school district;

3. An assessment of the interaction and relationship among the superintendent, central office personnel, and the school principal;

4. A recommendation of the steps the school may implement to launch and sustain a turnaround process; and

5. A recommendation to the local board of education of the turnaround principles and strategies necessary for the superintendent to assist the school with turnaround.

(b) The report of an audit conducted under this subsection shall be provided to the superintendent, local board of education, school principal, commissioner of education, and the Kentucky Board of Education.

(7) After completion of the audit described in subsection (6) of this section, each school identified for comprehensive support and improvement shall engage in the following turnaround intervention process:

(a) The local board of education shall:

1. Issue a request for proposals for a private entity with documented success at turnaround diagnosis, training, and improved performance of organizations to provide a turnaround training and support team to the school identified for comprehensive support and improvement. The local board of education shall select the turnaround entity and negotiate the scope and duration of the entity's services;

2. Utilize local staff and community partners to serve as the turnaround team for the school identified for comprehensive support and improvement; or

3. Select the Kentucky Department of Education to serve as the turnaround team, if the local board determines the options provided in subparagraphs 1. and 2. of this paragraph are not viable alternatives;

(b) The authority of the school council granted under KRS 160.345 shall be transferred to the superintendent;

(c) The superintendent may either retain the principal or reassign him or her to a comparable position in the district;

(d) The superintendent shall select a principal for the school if a principal vacancy or reassignment occurs. The superintendent shall consult with the turnaround team, parents, certified staff, and classified staff before appointing a principal replacement;

(e) Upon recommendation of the principal, the superintendent may reassign certified staff members to a comparable position in the school district;

(f) The superintendent shall collaborate with the turnaround team to design ongoing turnaround training and support for the principal and a corresponding monitoring system of effectiveness and student achievement results;

(g) The principal shall collaborate with the turnaround team to establish an advisory leadership team representing school stakeholders including other school leaders, teachers, and parents;

(h) 1. The local school board shall collaborate with the superintendent, principal, turnaround team, and the advisory leadership team to propose a three (3) year turnaround plan.

2. The turnaround plan shall include requests to the department for exemptions from submitting documentation that are identified by the principal, advisory leadership team, and turnaround team as inhibitors to investing time in innovative instruction and accelerated student achievement of diverse learners including ongoing staff instructional plans, student interventions, formative assessment results, or staff effectiveness processes.

3. The turnaround plan shall be reviewed for approval by the superintendent and the local board of education and shall be subject to review, approval, monitoring, and periodic review by the department as described in KRS 158.782;

(i) The school district may request technical assistance from the department for development and implementation of the turnaround plan, which may include conducting needs assessments, selecting evidence-based interventions, and reviewing and addressing resource inequities;

(j) The turnaround plan shall be fully implemented by the first full day of the school year following the school year the school was identified for comprehensive support and improvement; and

(k) The superintendent shall periodically report to the local school board, and at least annually to the commissioner of education, on the implementation and results of the turnaround plan.

(8) To assist with funding the audit and turnaround intervention process described in subsections (5) and (7) of this section and not provided by the department, the department shall annually reimburse the school district, for a maximum of three (3) years, an amount not to exceed the amount budgeted by the department to serve as the turnaround team to a school under subsection (7)(a)3. of this section, including Commonwealth school improvement funds under KRS 158.805 and assistance personnel.

(9) The Kentucky Board of Education shall establish statewide exit criteria for schools identified for targeted support and improvement and comprehensive support and improvement.

(10) If a school enters comprehensive support and improvement status and does not make any annual improvement, as determined by the department, for two (2) consecutive years, or if the school does not exit the status after three (3) years, the school shall enter a school intervention process chosen by the commissioner of education that provides more rigorous support and action by the department to improve the school's performance.

(11) For school districts that include a significant number of schools, as determined by the department, identified for targeted support and improvement:

(a) The department shall periodically review a local board's resource allocations to support school improvement and provide technical assistance to the local school board; and

(b) The department may provide a recommended list of turnaround or school intervention providers that have demonstrated success implementing evidence-based strategies.

(12) If, in the course of a school audit, the audit team identifies information suggesting that a violation of KRS 160.345(9)(a) may have occurred, the commissioner of education shall forward the evidence to the Office of Education Accountability for investigation.

(13) A school's right to establish a council granted under KRS 160.345 may be restored by the local board of education two (2) years after the school exits comprehensive support and improvement status.

➔Section 4. Based on the applicable state assessments administered during the 2018-2019 and 2019-2020 academic years, the Kentucky Department of Education shall report to the Interim Joint Committee on Education by December 1, 2019, and by December 1, 2020, regarding the assessment results as they pertain to the graduation requirement that will take effect with the 2023 graduating class. Each report shall include the minimum assessment score determined by the department to meet the graduation requirement and the basis for the determination, the number and percentage of students by district and by subgroup who did not achieve the minimum assessment score to satisfy the graduation requirement, the options for students not meeting the requirement, the actions expected to be taken by districts and schools to assist the students, and an analysis of the expected impact and outcomes resulting from the implementation of the assessment graduation requirement. Prior to presenting each report, the commissioner of education shall host a series of meetings across the state to gather feedback from educators, parents, and students regarding the assessment graduation requirement. The meetings shall be adequate in number and location to provide a broad geographic representation of Kentucky schools, and the reports shall include a summary of the meetings and feedback received.

➔Section 5. Following the 2018-2019 and 2019-2020 academic years, the commissioner of education shall convene a committee each year that includes but is not limited to school superintendents, school administrators, district assessment coordinators, a member of the Council on Postsecondary Education, a career and technical education educator, and a member of the business and industry community. The committee shall analyze state assessment results and examine and consider the expected impacts, unintended consequences, and potential for all schools to reach the highest ratings in the state accountability system. The Kentucky Department of Education shall report to the Interim Joint Committee on Education by December 1, 2019, and by December 1, 2020, regarding the findings of each committee.

Signed by Governor April 9, 2019.

CHAPTER 200

(SB 18)

AN ACT relating to pregnancy-related accommodations.

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

➔Section 1. KRS 344.030 is amended to read as follows:

For the purposes of KRS 344.030 to 344.110:

(1) "Qualified individual with a disability" means an individual with a disability as defined in KRS 344.010 who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's disability without undue hardship on the conduct of the employers' business. Consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job***;*** ~~[.]~~

(2) "Employer" means a person who has eight (8) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person, ***except for purposes of determining accommodations for an employee's own limitations related to her pregnancy, childbirth or related medical conditions, employer means a person who has fifteen (15) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and any agent of the person, and*** except for purposes of determining discrimination based on disability, employer means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year,

and any agent of that person, except that, for two (2) years following July 14, 1992, an employer means a person engaged in an industry affecting commerce who has twenty-five (25) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding year, and any agent of that person. For the purposes of determining discrimination based on disability, employer shall not include:

(a) The United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(b) A bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501(c) of the Internal Revenue Service Code of 1986***;***~~[.]~~

(3) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person***;***~~[.]~~

(4) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization***;***~~[.]~~

(5) (a) "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse, or child, or an individual employed to render services as a domestic in the home of the employer.

(b) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter.

(c) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.

(d) For purposes of this subsection, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1***;***~~[.]~~

(6) "Reasonable accommodation"

(a) Means making existing facilities used by employees readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities***; and***

(b) For an employee's own limitations related to her pregnancy, childbirth, or related medical conditions, may include more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, appropriate seating, temporary transfer to a less strenuous or less hazardous position, job restructuring, light duty, modified work schedule, and private space that is not a bathroom for expressing breast milk;~~[.]~~

(7) "Religion" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business***;***~~[.]~~

(8) ***(a)*** The terms "because of sex" ***and***~~[or]~~ "on the basis of sex" include~~[,]~~ but are not limited to~~[,]~~ because of or on the basis of pregnancy, childbirth, or related medical conditions,~~[;]~~ and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work~~[, and nothing in this section shall be interpreted to permit otherwise]~~.

(b) "Related medical condition" includes but is not limited to lactation or the need to express breast milk for a nursing child and has the same meaning as in the Pregnancy Discrimination Act, 42 U.S.C. sec. 2000e(k), and shall be construed as that term has been construed under that Act; and

(9) "Undue hardship," for purposes of disability discrimination ***or limitations due to pregnancy, childbirth, or related medical conditions as described in subsection (1)(c) of Section 2 of this Act***, means an action requiring significant difficulty or expense, when considered in light of the following factors:

(a) The nature and cost of the accommodation needed;

(b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at the facility; the effect on expenses and resources; or the impact otherwise of such accommodation upon the operation of the facility;

(c) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; and the number, type, and location of its facilities;~~[and]~~

(d) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity***; and***

(e) In addition to paragraphs (a) to (d) of this subsection, for pregnancy, childbirth, and related medical conditions, the following factors:

1. The duration of the requested accommodation; and

2. Whether similar accommodations are required by policy to be made, have been made, or are being made for other employees due to any reason.

➔Section 2. KRS 344.040 is amended to read as follows:

(1) It is an unlawful practice for an employer:

(a) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, national origin, sex, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

(b) To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, or age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;~~[or]~~

(c) ***To fail to make reasonable accommodations for any employee with limitations related to pregnancy, childbirth, or a related medical condition who requests an accommodation, including but not limited to the need to express breast milk, unless the employer can demonstrate the accommodation would impose an undue hardship on the employer's program, enterprise, or business. The following shall be required as to reasonable accommodations:***

1. An employee shall not be required to take leave from work if another reasonable accommodation can be provided;

2. The employer and employee shall engage in a timely, good faith, and interactive process to determine effective reasonable accommodations; and

3. If the employer has a policy to provide, would be required to provide, is currently providing, or has provided a similar accommodation to other classes of employees, then a rebuttable presumption is created that the accommodation does not impose an undue hardship on the employer; or

(d) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking.

(2) (a) A difference in employee contribution rates for smokers and nonsmokers in relation to an employer-sponsored health plan shall not be deemed to be an unlawful practice in violation of this section.

(b) The offering of incentives or benefits offered by an employer to employees who participate in a smoking cessation program shall not be deemed to be an unlawful practice in violation of this section.

(3) (a) An employer shall provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions, including the right to reasonable accommodations, to:

1. New employees at the commencement of employment; and

2. Existing employees not later than thirty (30) days after the effective date of this Act.

(b) An employer shall conspicuously post a written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions, including the right to reasonable accommodations, at the employer's place of business in an area accessible to employees.

➔Section 3. This Act may be cited as the Kentucky Pregnant Workers Act.

Signed by Governor April 9, 2019.

CHAPTER 201

(HB 256)

AN ACT relating to alcohol in dry or moist territories and declaring an emergency.

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

➔Section 1. KRS 242.230 is amended to read as follows:

(1) No person in dry territory shall sell, barter, loan, ~~[give,]~~procure for, or ***provide***~~[furnish]~~ another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage.

(2) No person in moist territory shall sell, barter, loan, ~~[give,]~~procure for, or ***provide***~~[furnish]~~ another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage unless the sale of that alcoholic beverage has been specifically authorized in that moist territory under a limited local option election.

(3) No person shall possess any alcoholic beverage unless it has been lawfully acquired and is intended to be used lawfully, and in any action the defendant shall have the burden of proving that the alcoholic beverages found in his or her possession were lawfully acquired and were intended for lawful use.

(4) (a) It shall not be a violation of this section for a person to possess or consume, or to provide alcoholic beverages to others in dry or moist territory, if:

1. The alcoholic beverages were lawfully purchased in wet or moist territory;

2. The alcoholic beverages are not sold to any person in dry or moist territory;

3. Any person possessing or consuming alcohol is twenty-one (21) years of age or older;

4. The possession, consumption, or provision occurs at a private residence or private event, regardless of whether the venue is a public place; and

5. The possession, consumption, or provision does not occur at a public place in violation of KRS Chapter 222.

(b) For purposes of this section, an event is public, not private, if any member of the public is permitted to enter or attend the event upon payment of consideration.

➔Section 2. KRS 242.260 is amended to read as follows:

(1) It shall be unlawful for any person to bring into, transfer to another, deliver, or distribute in any dry or moist territory, except as provided in subsection (2) of this section, any alcoholic beverage, regardless of its name. Each package of such beverage so brought, transferred, or delivered in such territory shall constitute a separate offense. Nothing in this section shall be construed to prevent any distiller or manufacturer or any authorized agent of a distiller, manufacturer, or wholesale dealer from transporting or causing to be transported by a licensed carrier any alcoholic beverage to their distilleries, breweries, wineries, or warehouses where the sale of such beverage may be lawful, either in or out of the state.

(2) Subsection (1) of this section shall also apply to any moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.

(3) No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.

(4) Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery, or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.

(5) It shall not be a violation of this section for a person to bring alcoholic beverages that were lawfully purchased in wet or moist territory into dry or moist territory to a private residence, or to a private event regardless of whether the venue is a public place, for personal consumption or consumption by others so long as the possession, consumption, or provision does not occur at a public place in violation of KRS Chapter 222. For purposes of this subsection, an event is public, not private, if any member of the public is permitted to enter or attend the event upon payment of consideration.

➔Section 3. KRS 243.020 is amended to read as follows:

(1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person holds or is an agent, servant, or employee of a person who holds the kind of license that authorizes the act.

(2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a rebuttable presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.

(3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a person, conducting a place of business patronized by the public, who is not a licensee authorized to sell alcoholic beverages, shall not permit any person to sell, barter, loan, give away, or drink alcoholic beverages on the premises of the ~~[licensee's]~~place of business.

(4) A licensee shall not permit any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee.

(5) Any distilled spirits or wine in excess of three (3) gallons (twelve (12) liters) shall not be stored or kept except upon the licensed premises of a licensee.

(6) In a moist territory, the only types of licenses that may be issued are those that directly correspond with the types of sales approved by the voters through moist elections within the territory, unless otherwise specifically authorized by statute.

➔Section 4. KRS 243.033 is amended to read as follows:

(1) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.

(2) The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory under KRS 242.1244 for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall authorize alcoholic beverage sales at a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.

(3) The caterer's license shall authorize the caterer to:

(a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260;

(b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and the customer's guests, in:

1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;

2. Wet cities and counties in which quota retail drink licenses are not available if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or

3. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;

(c) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and

(d) Receive payment for alcoholic beverages served at a catered event on a by-the-drink, cash bar, or by-the-event basis. The caterer may bill the customer for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.

(4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary alcoholic beverage auction license has been issued under KRS 243.036.

(5) A caterer licensee shall not cater alcoholic beverages on Sunday except in territory in which the Sunday sale of alcoholic beverages is permitted under the provisions of KRS 244.290 and 244.480.

(6) A caterer licensee shall not cater alcoholic beverages at an event hosted by the caterer licensee or hosted as a joint venture of the caterer licensee.

(7) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

(8) The caterer licensee shall post a copy of the licensee's caterer's license at the location of the function for which alcoholic beverages are catered.

(9) All restrictions and prohibitions applying to a quota retail drink licensee and an NQ4 retail malt beverage drink licensee not inconsistent with this section shall apply to the caterer licensee.

(10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.

(11) Notwithstanding subsection (3)(b) of this section, a caterer may serve alcoholic beverages to guests who are twenty-one (21) years of age or older at a private event in dry territory if:

(a) The alcoholic beverages were lawfully purchased in a wet or moist territory:

1. By an individual; or

2. At the caterer's licensed premises in wet or moist territory; and

(b) The alcoholic beverages are not sold in dry territory to guests at the private residence or private event regardless of whether the venue is a public place.

➔Section 5. Whereas the inability to possess, consume, or provide alcoholic beverages at a private residence, or at a private event regardless of whether the venue is a public place, is a hindrance to individual freedoms and commerce, and individuals may find themselves subject to needless prosecution if these are not corrected immediately, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 9, 2019.

CHAPTER 202

(HB 346)

AN ACT amending the 2018-2020 executive branch biennial budget, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. The provisions of 2019 Regular Session HB 268/EN are amended to read as follows:

On page 20, line 7, delete "***180,613,000***" and insert in lieu thereof "***177,013,000***".

➔Section 2. Whereas the provisions of this Act provide ongoing support for programs funded in the 2018-2020 executive branch biennial budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 9, 2019.