

CHAPTER 198**(HB 193)**

Provisions of this bill that are to be deleted due to vetoes of the Governor that were not overridden by the General Assembly are displayed as bracketed and struck-through text enclosed in double asterisks, e.g., ~~[text]**~~.**

AN ACT relating to appropriations providing financing and conditions for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky.

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

➔Section 1. The Transportation Cabinet Budget is as follows:

**PART I
OPERATING BUDGET**

(1) Funds Appropriations: There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, Federal Funds accounts, or Bond Funds accounts for the fiscal year beginning July 1, 2019, and ending June 30, 2020, for the fiscal year beginning July 1, 2020, and ending June 30, 2021, and for the fiscal year beginning July 1, 2021, and ending June 30, 2022, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the budget units of the Transportation Cabinet are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

A. TRANSPORTATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND SUPPORT

	2020-21	2021-22
General Fund	500,000	500,000
Restricted Funds	2,672,100	2,676,600
Road Fund	85,112,100	85,493,100
TOTAL	88,284,200	88,669,700

(1) Biennial Highway Construction Plan: The Secretary of the Transportation Cabinet shall produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2020-2022 Biennial Highway Construction Program and Section 2 shall detail the 2020-2022 Highway Preconstruction Program Plan for fiscal year 2020-2021 through fiscal year 2025-2026 as identified by the 2020 General Assembly. This document shall mirror in data type and format the fiscal year 2020-2026 Recommended Six-Year Road Plan as submitted to the 2020 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2020 Regular Session of the General Assembly.

(2) Debt Service: Included in the above Road Fund appropriation is \$7,110,100 in fiscal year 2020-2021 and \$7,105,900 in fiscal year 2021-2022 for debt service on previously authorized bonds.

(3) Adopt-A-Highway Litter Program: The Transportation Cabinet and the Energy and Environment Cabinet may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

(4) Riverport Improvements: Included in the above General Fund appropriation is \$500,000 in each fiscal year to improve public riverports within Kentucky. The Secretary of the Transportation Cabinet, in conjunction with the Kentucky Water Transportation Advisory Board, shall determine how the funds are distributed.

2. AVIATION

	2020-21	2021-22
Restricted Funds	21,221,400	16,224,900
Federal Funds	672,000	500,000
Road Fund	2,797,700	1,805,600
TOTAL	24,691,100	18,530,500

(1) **Operational Costs:** Notwithstanding KRS 183.525(5), the above Restricted Funds appropriation includes operational costs of the program in each fiscal year.

(2) **Debt Service:** Included in the above Road Fund appropriation is \$1,831,100 in fiscal year 2020-2021 and \$837,400 in fiscal year 2021-2022 for debt service on previously authorized bonds. Notwithstanding KRS 183.525, \$1,831,100 in fiscal year 2020-2021 and \$837,400 in fiscal year 2021-2022 is transferred to the Road Fund from the Kentucky Aviation Economic Development Fund to support debt service on those bonds.

3. DEBT SERVICE

	2020-21	2021-22
Road Fund	147,991,400	139,139,600

(1) **Economic Development Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$147,891,400 in fiscal year 2020-2021 and \$139,039,600 in fiscal year 2021-2022 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously authorized by the General Assembly and issued by the Kentucky Turnpike Authority.

(2) **Debt Payment Acceleration Fund Account:** Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2020-2022 fiscal biennium.

4. HIGHWAYS

	2020-21	2021-22
Restricted Funds	123,458,100	150,238,300
Federal Funds	955,999,900	962,500,500
Road Fund	905,271,800	935,647,200
TOTAL	1,984,729,800	2,048,386,000

(1) **Debt Service:** Included in the above Federal Funds appropriation is \$79,468,700 in fiscal year 2020-2021 and \$79,388,200 in fiscal year 2021-2022 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) Bonds previously appropriated by the General Assembly.

(2) **State Supported Construction Program:** Included in the above Road Fund appropriation is \$321,391,800 in fiscal year 2020-2021 and \$350,671,500 in fiscal year 2021-2022 for the State Supported Construction Program.

(3) **Biennial Highway Construction Program:** Included in the State Supported Construction Program is \$184,016,300 in fiscal year 2020-2021 and \$209,071,500 in fiscal year 2021-2022 from the Road Fund for state construction projects in the 2020-2022 Biennial Highway Construction Program. ~~**[The fiscal year 2020-2021 appropriation includes \$68,806,900 for projects in the 2020-2022 Biennial Highway Construction Program with a fund designation of "PM." The fiscal year 2021-2022 appropriation includes \$108,133,000 for projects in the 2020-2022 Biennial Highway Construction Program with a fund designation of "FED."]**~~

(4) **Highway Construction Contingency Account:** Included in the State Supported Construction Program is \$26,600,000 in fiscal year 2020-2021 and \$16,600,000 in fiscal year 2021-2022 for the Highway Construction Contingency Account. ~~**[Notwithstanding KRS 45.247(2), (4), (6), (7), and (8), the Secretary shall only expend Highway Construction Contingency moneys for projects of an emergency nature, for projects that relieve a hazardous condition, or to provide the state match for unanticipated Federal Funds made available as a result of other states not utilizing their total federal obligations.]**~~ Notwithstanding KRS 224.43-505(2)(d), included in the Highway Construction Contingency Account is \$5,000,000 in each fiscal year for the Kentucky Pride Fund created in KRS 224.43-505. Also included in the Highway Construction Contingency Account for Railroads is \$1,600,000 in each

fiscal year for public safety and service improvements which shall not be expended unless matched with non-state funds equaling at least 20 percent of the total amount for any individual project. Additionally, in each fiscal year, up to \$350,000 of the \$1,600,000 appropriation may be used to research the merits and responsibilities of the Kentucky Rail Office in the Kentucky Transportation Cabinet and establish and administer the Kentucky Rail Office.

(5) 2018-2020 Biennial Highway Construction Plan: Projects in the enacted 2018-2020 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2020-2022 fiscal biennium. If projects in previously enacted highway construction plans conflict with the 2020-2022 Biennial Highway Construction Plan, the projects in the 2020-2022 Biennial Highway Construction Plan shall control. The Secretary shall make every effort to maintain highway program delivery by adhering to the timeframes included in the 2020-2022 Biennial Highway Construction Plan for those projects.

(6) Kentucky Transportation Center: Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is \$290,000 in each fiscal year for the Kentucky Transportation Center.

(7) State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys or Toll Credits to match federal highway moneys.

(8) Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific moneys shall be used on the project identified; and (b) All other funds shall be used to ensure that projects in the fiscal biennium 2020-2022 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Highway Preconstruction Program.

(9) Road Fund Cash Management: The Secretary of the Transportation Cabinet may continue the Cash Management Plan to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2020-2022 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary shall continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided. The Transportation Cabinet shall provide quarterly reports to the Interim Joint Committee on Appropriations and Revenue when the General Assembly is not in session and the Standing Committees on Appropriations and Revenue when the General Assembly is in session beginning July 1, 2020.

(10) Carry Forward of Appropriation Balances: Notwithstanding KRS 45.229, unexpended Road Fund appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2019-2020 and in fiscal year 2020-2021 shall not lapse but shall carry forward. Unexpended Federal Funds and Restricted Funds appropriations in the Highways budget unit for the Construction program, the Maintenance program, the Equipment Services program, and the Research program in fiscal year 2019-2020 and in fiscal year 2020-2021, up to the amount of ending cash balances and unissued Highway and GARVEE Bond Funds, to include any interest income earned on those bond funds, and grant balances shall not lapse but shall carry forward.

(11) Federally Supported Construction Program: Included in the above Federal Funds appropriation is \$852,506,400 in fiscal year 2020-2021 and \$856,313,300 in fiscal year 2021-2022 for federal construction projects.

(12) Highways Maintenance: Included in the above Highways Road Fund appropriation is \$399,379,300 in fiscal year 2020-2021 and \$393,769,000 in fiscal year 2021-2022 for Highways Maintenance. Highways Maintenance positions may be filled to the extent the above funding level and the Highways Maintenance continuing appropriation are sufficient to support those positions.

(13) Delayed Projects Status Report: The Secretary of the Transportation Cabinet shall report by September 30 of each fiscal year to the Interim Joint Committee on Transportation any project included in the enacted Biennial Highway Construction Plan which has been delayed beyond the fiscal year for which the project was authorized. The report shall include:

- (a) The county name;
- (b) The Transportation Cabinet project identification number;
- (c) The route where the project is located;

- (d) The length of the project;
- (e) A description of the project and the scope of improvement;
- (f) The type of local, state, or federal funds to be used on the project;
- (g) The stage of development for the design, right-of-way, utility, and construction phases;
- (h) The fiscal year in which each phase of the project was scheduled to commence;
- (i) The estimated cost for each phase of the project;
- (j) A detailed description of the circumstances leading to the delay; and
- (k) The same information required in paragraphs (a) to (i) of this subsection for the project or projects advanced with funds initially scheduled for the delayed project.

(14) Maintenance Reentry Employment Program: Included in the above Road Fund appropriation is \$250,000 in each fiscal year to support contracting with a 501(c)(3) nonprofit organization that employs individuals on probation or parole supervision to perform crew-based maintenance services. These individuals will be selected with input from the Department of Corrections and shall provide assistance with litter abatement, graffiti removal, and vegetation control.

5. JUDGMENTS

(1) Payment of Judgments: Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

6. PUBLIC TRANSPORTATION

	2020-21	2021-22
General Fund	5,589,000	13,989,000
Restricted Funds	9,203,600	685,300
Federal Funds	66,287,400	25,800,200
TOTAL	81,080,000	40,474,500

(1) Toll Credits: The Transportation Cabinet is authorized to maximize, to the extent necessary, the use of Toll Credits to match Federal Funds for transit systems capital grants.

(2) Nonpublic School Transportation: Included in the above General Fund appropriation is \$3,500,000 in each fiscal year for nonpublic school transportation.

7. REVENUE SHARING

	2020-21	2021-22
Road Fund	335,267,500	341,480,300

(1) County Road Aid Program: Included in the above Road Fund appropriation is \$126,675,800 in fiscal year 2020-2021 and \$129,053,900 in fiscal year 2021-2022 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2) and (4), the above amount has been reduced by \$38,000 in each year, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(2) Rural Secondary Program: Included in the above Road Fund appropriation is \$153,672,400 in fiscal year 2020-2021 and \$156,557,200 in fiscal year 2021-2022 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1) and (4), the above amount has been reduced by \$46,000 in each year, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(3) Municipal Road Aid Program: Included in the above Road Fund appropriation is \$53,300,700 in fiscal year 2020-2021 and \$54,301,300 in fiscal year 2021-2022 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.320(4) and 177.365(1), the above amount has been reduced by \$16,000 in each year, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(4) **Energy Recovery Road Fund:** Included in the above Road Fund appropriation is \$165,000 in fiscal year 2020-2021 and \$142,000 in fiscal year 2021-2022 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.978, 177.979, and 177.981.

(5) **County Judge/Executive Expense Allowance:** Notwithstanding KRS 67.722, each County Judge/Executive not serving in a consolidated local government shall receive an annual expense allowance of \$2,400 during the 2020-2022 fiscal biennium. Payment shall be made quarterly from the Rural Secondary Program.

(6) **Continuation of the Flex Funds and the 80/20 Bridge Replacement Programs:** The Transportation Cabinet shall continue the Flex Funds and the 80/20 Bridge Replacement Programs within the Rural Secondary Program.

8. VEHICLE REGULATION

	2019-20	2020-21	2021-22
Restricted Funds	-0-	14,640,500	15,685,800
Federal Funds	-0-	2,640,100	3,127,100
Road Fund	4,265,500	46,232,900	45,483,500
TOTAL	4,265,500	63,513,500	64,296,400

(1) **Debt Service:** Included in the above Road Fund appropriation is \$800,000 in fiscal year 2020-2021 and \$1,541,000 in fiscal year 2021-2022 for debt service on previously authorized bonds.

(2) **Regional Driver License Office:** Included in the above Road Fund appropriation in fiscal year 2021-2022 is sufficient funding to operate a regional driver license issuing office in the city of London. If established, the office shall not replace any current or proposed office.

TOTAL - TRANSPORTATION CABINET

	2019-20	2020-21	2021-22
General Fund	-0-	6,089,000	14,489,000
Restricted Funds	-0-	171,195,700	185,510,900
Federal Funds	-0-	1,025,599,400	991,927,800
Road Fund	4,265,500	1,522,673,400	1,549,049,300
TOTAL	4,265,500	2,725,557,500	2,740,977,000

PART II

CAPITAL PROJECTS BUDGET

(1) **Capital Construction Fund Appropriations and Reauthorizations:** Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2020-2022 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) **Expiration of Existing Line-Item Capital Construction Projects:** All appropriations to existing line-item capital construction projects expire on June 30, 2020, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2020; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, if the authorized project completes an initial draw on the line of credit within the biennium immediately subsequent to the original authorization; and (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this subsection, the disposition of 2018-2020 fiscal biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(5)(c).

(3) **Bond Proceeds Investment Income:** Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project shall be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations.

(4) Appropriations for Projects Not Line-Itemized: Inasmuch as the identification of specific projects cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following area: Aircraft Maintenance Pool. Notwithstanding any statute to the contrary, projects estimated to cost \$1,000,000 and over and equipment estimated to cost \$200,000 and over shall be reported to the Capital Projects and Bond Oversight Committee.

A. TRANSPORTATION CABINET

Budget Units	2019-20	2020-21	2021-22
1. GENERAL ADMINISTRATION AND SUPPORT			
001. Maintenance Pool 2020-2022			
Road Fund	-0-	2,950,000	2,950,000
002. Construct Whitley County Maintenance Facility and Salt Structure			
Road Fund	-0-	1,050,000	-0-
003. Construct Nicholas County Maintenance Facility and Salt Storage			
Road Fund	-0-	2,000,000	-0-
004. Construct Ballard County Maintenance Facility and Salt Storage Additional Reauthorization (\$1,584,000 Road Fund)			
Road Fund	-0-	700,000	-0-
005. Construct Hopkins County Maintenance Facility and Salt Storage Reauthorization (\$1,800,000 Road Fund)			
006. Construct Clay County District Office Reauthorization (\$7,445,000 Road Fund)			
007. AASHTOWare			
Road Fund	-0-	1,000,000	1,000,000
008. Construct Casey County Maintenance Facility			
Restricted Funds	660,000	-0-	-0-
Road Fund	800,000	-0-	-0-
TOTAL	1,460,000	-0-	-0-
009. District 6 District Office and Materials Lab			
Road Fund	-0-	1,500,000	-0-
010. Replace Automated Vehicle Information System (AVIS) - Additional Reauthorization (\$25,000,000 Bond Funds)			
Restricted Funds	-0-	-0-	4,000,000
2. AVIATION			
001. Aircraft Maintenance Pool - 2020-2022			
Restricted Funds	-0-	-0-	300,000
Investment Income	-0-	700,000	700,000
TOTAL	-0-	700,000	1,000,000
(1) Restricted Funds: Notwithstanding KRS 186.240(2) and 186.240(3), the above Restricted Funds shall be transferred to the Aircraft Maintenance Pool - 2020-2022.			
3. HIGHWAYS			
001. Repair Loadometer and Rest Areas - 2020-2022			
Road Fund	-0-	1,500,000	1,500,000
002. Road Maintenance Parks - 2020-2022			

Road Fund	-0-	1,250,000	1,250,000
003. Various Environmental Compliance - 2020-2022			
Road Fund	-0-	490,000	490,000
004. Transportation Warehouse Facility Renovation or Replacement			
Road Fund	-0-	1,500,000	-0-
005. Jefferson County - Lease			

PART III**FUNDS TRANSFER**

The General Assembly finds that the financial condition of state government requires the following action.

Notwithstanding the statutes or requirements of the Restricted Funds enumerated below, there is transferred to the General Fund the following amounts in fiscal year 2020-2021 and fiscal year 2021-2022:

	2020-21	2021-22
A. TRANSPORTATION CABINET		
1. Aviation		
Agency Revenue Fund (KRS 183.525(4) and (5))	438,400	428,800
2. Aviation		
Special Revenue Fund	-0-	899,300
3. Vehicle Regulation		
Agency Revenue Fund (KRS 186.040(6)(a))	4,400,000	400,000
4. Vehicle Regulation		
Agency Revenue Fund (KRS 186.040(6)(b))	-0-	2,000,000
5. Vehicle Regulation		
Agency Revenue Fund (KRS 186.240(2) and (3))	-0-	700,000
6. Vehicle Regulation		
Agency Revenue Fund (KRS 235.080, 235.085, and 235.130)	-0-	300,000
TOTAL - FUNDS TRANSFER	4,838,400	4,728,100

PART IV**TRANSPORTATION CABINET BUDGET SUMMARY****OPERATING BUDGET**

	2019-20	2020-21	2021-22
General Fund	-0-	6,089,000	14,489,000
Restricted Funds	-0-	171,195,700	185,510,900
Federal Funds	-0-	1,025,599,400	991,927,800
Road Fund	4,265,500	1,522,673,400	1,549,049,300

SUBTOTAL	4,265,500	2,725,557,500	2,740,977,000
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CAPITAL PROJECTS BUDGET

	2019-20	2020-21	2021-22
Restricted Funds	660,000	-0-	4,300,000
Road Fund	800,000	13,940,000	7,190,000
Investment Income	-0-	700,000	700,000
SUBTOTAL	1,460,000	14,640,000	12,190,000

TOTAL - TRANSPORTATION CABINET BUDGET

	2019-20	2020-21	2021-22
General Fund	-0-	6,089,000	14,489,000
Restricted Funds	660,000	171,195,700	189,810,900
Federal Funds	-0-	1,025,599,400	991,927,800
Road Fund	5,065,500	1,536,613,400	1,556,239,300
Investment Income	-0-	700,000	700,000
TOTAL FUNDS	5,725,500	2,740,197,500	2,753,167,000

➔Section 2. The provisions of the State/Executive Branch Budget, 2021 Regular Session HB 192/EN, are amended to read as follows:

Beginning on page 185, line 25, through page 186, line 17, delete language in its entirety and insert in lieu thereof the following:

"PART VII**GENERAL FUND SURPLUS EXPENDITURE PLAN**

(1) Notwithstanding KRS 48.130(7), 48.140(3), 48.700, and 48.705, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2019-2020, 2020-2021, and 2021-2022. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys made available for the General Fund Surplus Expenditure Plan pursuant to Part III, General Provisions, Section 22. of this Act are appropriated to the following:

(a) Authorized expenditures without a sum-specific appropriation amount, known as Necessary Government Expenses, including but not limited to Emergency Orders formally declared by the Governor in an Executive Order;

(b) The ~~**[entire remaining amount to the]~~** Budget Reserve Trust Fund; and

(c) ~~**[No surplus moneys in any fiscal year shall be reserved for]~~** Necessary Government Expenses in a subsequent fiscal year; and

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of each fiscal year, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan in fiscal year 2020-2021 and fiscal year 2021-2022. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission."

Line items vetoed and became law without Governor's signature April 7, 2021.