

CHAPTER 236

(SB 180)

AN ACT relating to guidelines and standards for labor and workforce development and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Education and Labor 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) *Subject to KRS Chapter 12, the cabinet 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) *Office of the Secretary, which shall include the Office of Legal Services, the Office of Administrative Services, the Office of Technology Services, the Office of Policy and Audit, the Office of Legislative Services, the Office of Communications, and the Office of Kentucky Center for Statistics, as follows:*
 1. *The Office of Legal Services shall:*
 - a. *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*
 - b. *Include the Workplace Standards Legal Division, Workforce Development Legal Division, and Workers' Claims Legal Division, each of which 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; and*
 2. *The following agencies and entities are attached to the Office of the Secretary for administrative purposes only:*
 - a. *Early Childhood Advisory Council;*
 - b. *Governor's School for Entrepreneurs Program;*
 - c. *Governor's Scholar Program;*
 - d. *Board of the Kentucky Center for Statistics; and*
 - e. *Foundation for Adult Education;*
 - (b) *Department of Workers' Claims, which 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 with the approval of 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;*
 - (c) *Department of Workplace Standards, which 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 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 with the approval of the Governor in accordance with KRS 12.050;*
 - (d) *Office of Unemployment Insurance, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040;*

- (e) *Kentucky Unemployment Insurance Commission;*
 - (f) *Department for Libraries and Archives;*
 - (g) *Office of Educational Programs;*
 - (h) *Kentucky Workforce Innovation Board; and*
 - (i) *Department of Workforce Development, which shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 who shall report to the secretary. Each office or division in the department shall be headed by an executive director or director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The department shall be composed of the following offices:*
 - 1. *Career Development Office;*
 - 2. *Office of Vocational Rehabilitation;*
 - 3. *Office of Employer and Apprenticeship Services;*
 - 4. *Office of Adult Education;*
 - 5. *Kentucky Apprenticeship Council, which shall be attached to the department for administrative purposes only;*
 - 6. *Division of Technical Assistance; and*
 - 7. *Office of the Kentucky Workforce Innovation Board.*
- (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) *Kentucky Occupational Safety and Health Standards Board;*
 - (e) *Kentucky Environmental Education Council;*
 - (f) *Kentucky Geographic Education Board;*
 - (g) *Board of Directors for the Center for School Safety;*
 - (h) *Kentucky Commission on Proprietary Education;*
 - (i) *Employers' Mutual Insurance Authority;*
 - (j) *Workers' Compensation Nominating Committee;*
 - (k) *Kentucky Commission on the Deaf and Hard of Hearing;*
 - (l) *Kentucky Educational Television;*
 - (m) *Kentucky Work Ready Skills Advisory Committee; and*
 - (n) *Foundation for Adult Education.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The secretary of the Education and Labor Cabinet 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 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, Pub. L. No. 105-220, as amended. The secretary shall have the authority to mandate fiscal responsibility and dispute resolution procedures among state organizational units for services provided under the federal Workforce Investment Act of 1998.*

- (2) (a) *The secretary of the Education and Labor Cabinet, and the secretary's designated representatives, in the discharge of the duties of the secretary may:*
1. *Administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and parties and the production of books, papers, correspondence, memoranda, and other records considered necessary and relevant to the matter under investigation;*
 2. *Administer oaths;*
 3. *Examine witnesses under oath;*
 4. *Take verification of proof or written instruments; and*
 5. *Take testimony, depositions, and affidavits to carry out any law over which the cabinet has jurisdiction.*
- (b) *When a person fails to comply with a cabinet subpoena, the Circuit Court of the county in which the person is found, resides, or has his principal place of business may, upon application of the secretary, his or her representative, or the party requesting the subpoena, issue an order requiring compliance. In any proceeding brought under this section, the Circuit Court having issued the order of compliance may modify or set aside the subpoena.*
- (c) *Subpoenas issued under this section may be served by an authorized representative of the cabinet, at any place in the state.*
- (3) *The secretary of the Education and Labor 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.*
- (4) *The secretary of the Education and Labor Cabinet shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, qualify for the receipt of federal funds, and 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.*
- (5) *The secretary of the Education and Labor Cabinet shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, workers' compensation, and all other matters pertaining to Kentucky labor laws and the state's regulation of labor in the Commonwealth.*
- (6) *The secretary, in person or by representative, shall:*
- (a) *Investigate and ascertain the wages of all employees employed in this state;*
 - (b) *Enter the place of business or employment of any employer of employees to examine and inspect all books, registers, payrolls, and other records that have a bearing upon the question of wages of employees and to ascertain compliance with the orders of the secretary; and*
 - (c) *Require from the employer a full and correct statement, in writing when the secretary or the secretary's representative considers it necessary, of the wages paid to all employees of the employer.*
- (7) (a) *The secretary of the Education and Labor Cabinet, in person or by representative, may prosecute any violation of any provision of any law which is his or her duty to administer or enforce.*
- (b) 1. *The secretary may enter into reciprocal agreements with the corresponding labor agency or official of any other state to collect in the other state claims assigned to the secretary.*
 2. *To the extent allowed by a reciprocal agreement, the secretary may maintain actions in the courts of another state to collect claims and judgments for wages and assign claims and judgments to the agency or official of another state for collection.*
 3. *If a reciprocal agreement extends a like comity to cases arising in the Commonwealth, the secretary may maintain actions in the courts of the Commonwealth to collect claims and judgments for wages arising in the other state in the same manner and to the same extent that actions are authorized when arising in the Commonwealth.*

- (8) *The secretary of the Education and Labor Cabinet shall develop and promulgate administrative regulations that 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, 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 if:*
- (a) *The person identified gives his or her consent; or*
 - (b) *Disclosure may be permitted under state or federal law.*
- (9) *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 Development 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 ensure the confidentiality of all information received. The Department of Workforce Development may share information concerning a client or applicant with any private or quasi-private agency if the agency has:*
- (a) *An agreement with the cabinet ensuring the confidentiality of the information; and*
 - (b) *A direct, tangible, and legitimate interest in the individual.*
- (10) *The secretary of the Education and Labor Cabinet, with the approval of the Governor, shall appoint necessary deputies, attorneys, statisticians, inspectors, and other employees and fix their salaries according to law. These employees shall receive their actual necessary expenses.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Education and Labor Cabinet shall exercise all administrative functions of the state concerned with employer-employee relationships, including the safety of workers and workers' compensation.*
- (2) *The cabinet shall:*
- (a) *Promote friendly and cooperative relations between employers and employees;*
 - (b) *Accumulate and publish industrial statistics and aid and encourage the development of new industries and the expansion of existing industries in Kentucky;*
 - (c) *Encourage, promote, and develop fair practices, both by employers and employees; discourage and eliminate as far as practicable all unfair practices by employers or employees; and enforce laws relating to unfair practices;*
 - (d) *Foster, promote, and develop the welfare of both wage earners and industries in Kentucky;*
 - (e) *Improve working and living conditions of employees, and advance their opportunities for profitable employment; and*
 - (f) *Inquire into the causes of accidental injuries and occupational diseases arising out of and in the course of employment, and advance measures for the prevention of accidents and occupational diseases and for the improvement of sanitary conditions in places of employment.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Education and Labor Cabinet shall require a national and state criminal background check for every prospective and current employee of the cabinet or its agencies, including contract staff, with access to or use of federal tax information. The criminal background investigation shall include a fingerprint check by the Department of Kentucky State Police and Federal Bureau of Investigation, pursuant to the following requirements:*
- (a) *The cabinet shall require each employee with access to or use of federal tax information to submit a complete and legible set of fingerprints to the Department of Kentucky State Police on a fingerprint card issued by the Federal Bureau of Investigation;*
 - (b) *The Department of Kentucky State Police shall submit the fingerprint card to the Federal Bureau of Investigation for a national criminal background check after a state criminal background check is conducted;*
 - (c) *The results of a national and state criminal background check shall not be distributed or otherwise released by the cabinet, except that the cabinet:*

1. *Shall provide an employee the results of his or her national and state criminal background check upon request; and*
 2. *May introduce the results, under seal, as evidence in a legal proceeding that involves a challenge to any personnel action taken by the cabinet based in whole or in part on information contained in the results; and*
- (d) *Any fee charged by the Department of Kentucky State Police or for the Federal Bureau of Investigation background check shall be an amount no greater than the actual cost of processing the request and conducting the background check.*
- (2) *The cabinet or its agencies shall promulgate administrative regulations in accordance with this section and KRS Chapter 13A to implement this section.*

➔Section 5. KRS 11.065 is amended to read as follows:

- (1) The secretaries of the Justice and Public Safety Cabinet, *the Education and Labor Cabinet*~~the Education and Workforce Development Cabinet~~, the Public Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Cabinet for Health and Family Services, the Finance and Administration Cabinet, the Energy and Environment Cabinet~~, the Labor Cabinet~~, the Tourism, Arts and Heritage Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the chief information officer, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.
- (2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.
- (3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

➔Section 6. 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) Agricultural Development Board.
 - (c) Kentucky Agricultural Finance Corporation.
 - (7) Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - 1. Office of Administrative Services.
 - a. Division of Operational Support.
 - b. Division of Management Services.
 - 2. Office of Operations.
 - a. Division of West Troops.
 - b. Division of East Troops.
 - c. Division of Special Enforcement.
 - d. Division of Commercial Vehicle Enforcement.
 - 3. Office of Technical Services.
 - a. Division of Forensic Sciences.
 - b. Division of Information Technology.
 - (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 Human Resource Management.
 - 1. Division of Human Resource Administration.
 - 2. Division of Employee Management.
 - (m) Department of Public Advocacy.
 - (n) Office of Communications.
 - 1. Information Technology Services Division.
 - (o) Office of Financial Management Services.
 - 1. Division of Financial Management.

- (p) Grants Management Division.
- ~~(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:~~
 - ~~1. Division of Human Resources.~~
 - ~~2. Division of Operations and Support Services.~~
 - ~~3. Division of Fiscal Management.~~
 - ~~(e) Office of Technology Services:~~
 - ~~(f) Office of Educational Programs:~~
 - ~~(g) Office of the Kentucky Center for Statistics:~~
 - ~~(h) Board of the Kentucky Center for 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.~~
 - ~~3. Education Professional Standards Board.~~
 - ~~(k) Department for Libraries and Archives:~~
 - ~~(l) Department of Workforce Investment:~~
 - ~~1. 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. Office of Unemployment Insurance.~~
 - ~~3. Office of Employer and Apprenticeship Services:~~
 - ~~a. Division of Apprenticeship.~~
 - ~~4. Career Development Office.~~
 - ~~5. Office of Adult Education.~~
 - ~~6. Unemployment Insurance Commission.~~

- ~~7. — Kentucky Apprenticeship Council.~~
- ~~8. — Division of Technical Assistance.~~
- ~~(m) — Foundation for Workforce Development.~~
- ~~(n) — Kentucky Workforce Investment Board.~~
- ~~(o) — Kentucky Commission on the Deaf and Hard of Hearing.~~
- ~~(p) — Kentucky Educational Television.~~
- ~~(q) — 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.
- (3)(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) Office of Claims and Appeals.
 1. Board of Tax Appeals.
 2. Board of Claims.
 3. Crime Victims Compensation Board.
 - (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.

ACTS OF THE GENERAL ASSEMBLY

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 Health and Life Insurance and Managed Care.
 2. Division of Property and Casualty Insurance.
 3. Division of Administrative Services.
 4. Division of Financial Standards and Examination.
 5. Division of Licensing.
 6. Division of Insurance Fraud Investigation.
 7. Division of Consumer Protection.
- (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 Occupational Safety and Health Compliance.~~
 - ~~2. Division of Occupational Safety and Health Education and Training.~~
 - ~~3. 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) State Labor Relations Board.~~

~~(g) Employers' Mutual Insurance Authority.~~

~~(h) Kentucky Occupational Safety and Health Review Commission.~~

~~(i) Workers' Compensation Nominating Committee.]~~

~~(4) [(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.
 - 5. Secretary's Office of Safety.
- (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.

~~(5) [(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.

ACTS OF THE GENERAL ASSEMBLY

- 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 and Small Business Innovation.
 - a. Commission on Small Business Innovation and Advocacy.

~~(6)~~~~(8)~~ Cabinet for Health and Family Services:

- (a) Office of the Secretary.
 - 1. Office of the Ombudsman and Administrative Review.
 - 2. Office of Public Affairs.
 - 3. Office of Legal Services.
 - 4. Office of Inspector General.
 - 5. Office of Human Resource Management.
 - 6. Office of Finance and Budget.
 - 7. Office of Legislative and Regulatory Affairs.
 - 8. Office of Administrative Services.
 - 9. Office of Application Technology Services.
- (b) Department for Public Health.
- (c) Department for Medicaid Services.
- (d) Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (e) Department for Aging and Independent Living.
- (f) Department for Community Based Services.
- (g) Department for Income Support.
- (h) Department for Family Resource Centers and Volunteer Services.
- (i) Office for Children with Special Health Care Needs.
- (j) Office of Health Data and Analytics.

~~(7)~~~~(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 Higher Education Assistance Authority.
- (u) Kentucky River Authority.
- (v) Kentucky Teachers' Retirement System Board of Trustees.
- (w) Executive Branch Ethics Commission.
- ~~(8)(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.
- (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.
- ~~(9)(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.
- (10) Education and Labor Cabinet:**
 - (a) Office of the Secretary.**
 - 1. Office of Legal Services.**
 - a. Workplace Standards Legal Division.**
 - b. Workers' Claims Legal Division.**
 - c. Workforce Development Legal Division.**
 - 2. Office of Administrative Services.**
 - a. Division of Human Resources Management.**
 - b. Division of Fiscal Management.**
 - c. Division of Operations and Support Services.**
 - 3. Office of Technology Services.**
 - a. Division of Information Technology Services.**
 - 4. Office of Policy and Audit.**
 - 5. Office of Legislative Services.**
 - 6. Office of Communications.**
 - 7. Office of the Kentucky Center for Statistics.**
 - 8. Board of the Kentucky Center for Statistics.**
 - 9. Early Childhood Advisory Council.**
 - 10. Governors' Scholars Program.**
 - 11. Governor's School for Entrepreneurs Program.**
 - 12. Foundation for Adult Education.**
 - (b) Department of Education.**

1. *Kentucky Board of Education.*
2. *Kentucky Technical Education Personnel Board.*
3. *Education Professional Standards Board.*
- (c) *Board of Directors for the Center for School Safety.*
- (d) *Department for Libraries and Archives.*
- (e) *Kentucky Environmental Education Council.*
- (f) *Kentucky Educational Television.*
- (g) *Kentucky Commission on the Deaf and Hard of Hearing.*
- (h) *Department of Workforce Development.*
 1. *Career Development Office.*
 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.*
 3. *Office of Employer and Apprenticeship Services.*
 - a. *Division of Apprenticeship.*
 4. *Kentucky Apprenticeship Council.*
 5. *Division of Technical Assistance.*
 6. *Office of Adult Education.*
 7. *Office of the Kentucky Workforce Innovation Board.*
- (i) *Department of Workplace Standards.*
 1. *Division of Occupational Safety and Health Compliance.*
 2. *Division of Occupational Safety and Health Education and Training.*
 3. *Division of Wages and Hours.*
- (j) *Office of Unemployment Insurance.*
- (k) *Kentucky Unemployment Insurance Commission.*
- (l) *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 Specialist and Medical Services.*
 6. *Workers' Compensation Board.*
- (m) *Workers' Compensation Funding Commission.*
- (n) *Kentucky Occupational Safety and Health Standards Board.*
- (o) *State Labor Relations Board.*
- (p) *Employers' Mutual Insurance Authority.*

- (q) *Kentucky Occupational Safety and Health Review Commission.*
- (r) *Workers' Compensation Nominating Committee.*
- (s) *Office of Educational Programs.*
- (t) *Kentucky Workforce Innovation Board.*
- (u) *Kentucky Commission on Proprietary Education.*
- (v) *Kentucky Work Ready Skills Advisory Committee.*
- (w) *Kentucky Geographic Education Board.*

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 7. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

- (1) Justice and Public Safety Cabinet.
- (2) *Education and Labor Cabinet* ~~{Education and Workforce Development Cabinet}.~~
- (3) Public Protection Cabinet.
- (4) Transportation Cabinet.
- (5) Cabinet for Economic Development.
- (6) Cabinet for Health and Family Services.
- (7) Finance and Administration Cabinet.
- (8) Tourism, Arts and Heritage Cabinet.
- (9) Personnel Cabinet.
- (10) Energy and Environment Cabinet.

~~{(11) Labor Cabinet.}~~

➔Section 8. KRS 12.260 is amended to read as follows:

- (1) There is hereby established in the Office of the Secretary of the Public Protection Cabinet a deputy secretary, appointed by the secretary pursuant to KRS 12.050, who shall be responsible for and engaged in operations of the cabinet and any other duties as assigned by the secretary and, in the absence of the secretary, have authority over cabinet affairs.
- (2) There is hereby established in the Office of the Secretary of the Energy and Environment Cabinet a deputy secretary, appointed by the secretary pursuant to KRS 12.050, who shall be responsible for and engaged in operations of the cabinet and any other duties as assigned by the secretary and, in the absence of the secretary, have authority over cabinet affairs.

- (3) There is hereby established in the Office of the Secretary of the ***Education and Labor Cabinet***~~Labor Cabinet~~ a deputy secretary, appointed by the secretary pursuant to KRS 12.050, who shall be responsible for and engaged in operations of the cabinet and any other duties as assigned by the secretary and, in the absence of the secretary, have authority over cabinet affairs.

➔Section 9. KRS 12.515 is amended to read as follows:

- (1) The following agencies shall designate a liaison to the Office for Faith-Based and Community Nonprofit Social Services:
- (a) The Cabinet for Health and Family Services;
 - (b) The Department of Workforce ***Development***~~Investment~~;
 - ~~[(c) The Education and Workforce Development Cabinet;]~~
 - ~~(c)~~~~[(d)]~~ The Department of Agriculture;
 - ~~(d)~~~~[(e)]~~ The Kentucky Housing Corporation;
 - ~~(e)~~~~[(f)]~~ The ***Education and Labor Cabinet***; and
 - ~~(f)~~~~[(g)]~~ The Economic Development Cabinet.
- (2) Each agency identified in subsection (1) of this section shall, in cooperation and coordination with the Office for Faith-Based and Community Nonprofit Social Services:
- (a) Review and evaluate existing policies that affect government funding opportunities for faith-based and nonprofit community organizations and report to the office, within ninety (90) days of June 20, 2005, actions necessary to implement KRS 12.510; and
 - (b) Amend existing policies and administrative regulations or implement new policies or administrative regulations in accordance with KRS Chapter 13A consistent with the principles established in KRS 12.500 to 12.520.

➔Section 10. KRS 12.550 is amended to read as follows:

- (1) The Governor's Council on Wellness and Physical Activity is hereby established and authorized to operate the Governor's Wellness and Physical Activity Program, Inc. for the purpose of establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth. The Governor's Council on Wellness and Physical Activity shall be attached to the Department for Public Health for administrative purposes.
- (a) The ex officio members of the Governor's Council on Wellness and Physical Activity shall be as follows:
 1. The Governor or the Governor's designee from the executive cabinet;
 2. The secretary of the Cabinet for Health and Family Services or designee;
 3. The secretary of the Personnel Cabinet or designee;
 4. The secretary of the Education and ***Labor***~~Workforce Development~~ Cabinet;
 5. The Senate co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly; and
 6. The House co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly.
 - (b) In addition to the ex officio members, the Governor shall appoint five (5) council members to serve three (3) year terms on the Governor's Council on Wellness and Physical Activity. Members appointed by the Governor may be reappointed by the Governor to serve successive terms. In making appointments, the Governor shall attempt to include individuals from different geographic regions of the Commonwealth of Kentucky. The Governor shall make appointments to fill vacancies as they occur. Each appointment after the initial appointment shall be for a three (3) year term unless the appointment is to fill the unexpired portion of a term.

- (c) The Governor or, if so designated by the Governor, the chairman of the council shall have the authority to hire, fire, and manage all personnel of the Governor's Wellness and Physical Activity Program, Inc., including the executive director.
 - (d) The council shall administer funds appropriated or gifts, donations, or funds received from any source. The council may expend funds in its discretion to carry out the intent of KRS 12.020, 12.023, and 12.550.
 - (e) The council shall closely coordinate with the Department for Public Health to establish policies and procedures.
 - (f) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council.
 - (g) The council shall make recommendations to the Governor and secretary of the Cabinet for Health and Family Services.
 - (h) The council shall meet quarterly or more often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.
 - (i) Members of the council shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the council, subject to Finance and Administration Cabinet administrative regulations.
 - (j) The council may establish working groups as necessary.
 - (k) The council shall establish the Governor's Wellness and Physical Activity Program, Inc. pursuant to the requirements in KRS 12.020, 12.023, and 12.550.
- (2) Funds appropriated for purposes of the program shall not lapse at the end of the fiscal year.
- (3) (a) The Governor's Wellness and Physical Activity Program, Inc. shall follow standard accounting practices and shall submit the following financial reports to the Office of the Governor, the Finance and Administration Cabinet, and the Legislative Research Commission:
1. Quarterly reports of expenditures of state funds, submitted on or before the thirtieth day after the end of each quarter in the corporation's fiscal year;
 2. Annual reports of receipts and expenditures for the Governor's Wellness and Physical Activity Program, Inc., submitted on or before the sixtieth day after the end of the fiscal year of the corporation; and
 3. The report of an annual financial audit conducted by an independent auditor, submitted on or before September 1 of each year.
- (b) The Governor's Wellness and Physical Activity Program, Inc. shall file quarterly reports with the Office of the Governor and the Legislative Research Commission. The report shall include a detail of the operations of the program for the preceding year. The report shall include information concerning the participant demographics, number of incentives distributed, and program outcomes according to such measures of success as the board may adopt.

➔Section 11. 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
 - 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) **Education and 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
 - 3. ***Unemployment insurance hearings conducted under authority of KRS Chapter 341***
- (f) Public Protection Cabinet
 - 1. Board of Claims
 - a. Liability hearings conducted under authority of KRS 49.020(5) and 49.040 to 49.180
- ~~(g) Education and Workforce Development Cabinet~~
 - ~~1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341~~
- ~~(g)(h)~~ Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121

- (h)(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 12. KRS 14.250 is amended to read as follows:
- (1) The Secretary of State, Finance and Administration Cabinet, the Cabinet for Economic Development, and the Commonwealth Office of Technology shall jointly establish a one-stop electronic business portal that shall serve as a single, unified entry point for business owners to access and complete initial and ongoing state services and requirements in relation to the creation or ongoing operation of a business located in the Commonwealth of Kentucky. The agencies identified in this subsection shall coordinate, manage, and implement the portal based on the results of an assessment conducted by the One-Stop Business Portal Advisory Committee under subsection (3) of this section.
 - (2) The One-Stop Business Portal Advisory Committee is hereby established to provide guidance in the creation and implementation of the one-stop business portal. The committee shall consist of the Secretary of State, the secretary of the Governor's Executive Cabinet, the secretary of the Economic Development Cabinet or his or her designee, the secretary of the Finance and Administration Cabinet or his or her designee, the secretary of the Education and ~~Labor/Workforce Development~~ Cabinet or his or her designee, the secretary of the Public Protection Cabinet or his or her designee, the secretary of the Transportation Cabinet or his or her designee, the secretary of the Tourism, Arts and Heritage Cabinet or his or her designee, and the secretary of the Energy and Environment Cabinet or his or her designee. The Governor may appoint other members to the committee

at his or her discretion. The committee shall be co-chaired by the Secretary of State and the secretary of the Governor's Executive Cabinet.

- (3) The One-Stop Business Portal Advisory Committee shall prepare an assessment detailing recommendations for the creation, ongoing operation, and management of the one-stop business portal, to be presented to the Governor, the Secretary of State, and the Legislative Research Commission by December 31, 2011. This assessment shall include the following:
- (a) An estimate of the costs for full implementation of the portal, including those associated with technology, maintenance, sharing agency data, information security, and other start-up costs;
 - (b) An estimate of the costs of establishing and maintaining a call center staffed with persons trained to answer questions and help businesses obtain information and services, along with a recommendation as to where the call center should be located and the number of staff necessary to operate it;
 - (c) Recommendations on the location, design, and functionality of the portal;
 - (d) Recommendations as to the roles of the state agencies identified in subsection (1) of this section regarding the day-to-day operational management of the portal;
 - (e) Recommendations on the time line for developing and testing the portal;
 - (f) Identification of any statutory or regulatory changes that need to be made to existing law to effectuate the portal's functionality;
 - (g) Identification of other state agencies that possess business-related functions and content so that those functions can be added to the portal;
 - (h) Identification of any impediments posed by federal law and recommended ways to address the impediment;
 - (i) A comprehensive analysis of the processes of all state agencies, with a view toward streamlining and reducing the paperwork necessary for businesses to interact with each agency; and
 - (j) Recommendations on the scope of services to be provided by the portal. At a minimum, services shall include:
 - 1. Application and renewal of business-related licenses and fees incident to the start-up and operation of a business;
 - 2. Electronic payment of taxes and related costs imposed by state law incident to the operation of a business;
 - 3. Filing of documents and papers imposed by state law associated with the operation of a business; and
 - 4. Creation of individual electronic accounts for each business which allows the business to monitor its filings, payments, and other business-compliance activities.
- (4) The One-Stop Business Portal Advisory Committee shall:
- (a) Ensure that the portal has a Web site and the ability to process new business registrations as handled by the Secretary of State's Office, and will be in a testing phase for the Department of Revenue's tax registration application by December 31, 2012; and
 - (b) Ensure that subsequent and additional online business applications maintained by the Commonwealth shall be evaluated and prioritized.

➔Section 13. KRS 14.255 is amended to read as follows:

- (1) To help facilitate data sharing between state agencies and as part of the ongoing establishment of a one-stop electronic business portal, the Secretary of State, the Finance and Administration Cabinet, the Cabinet for Economic Development, the Education and ~~Labor~~~~Workforce Development~~ Cabinet, and the Commonwealth Office of Technology shall jointly establish a unique Commonwealth business identification number which can be used in filings and services provided by the business portal.
- (2) By December 31, 2013, the agencies identified in subsection (1) of this section shall:

- (a) Recommend a timeline for implementing the new business identification numbering system for new business filings; and
- (b) Establish a five (5) year timeline for all state agencies to utilize the Commonwealth business identification number to facilitate data sharing and continued growth of services provided by the business portal.

➔Section 14. 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 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 15. KRS 15A.342 is amended to read as follows:

The Office of Drug Control Policy shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. In addition, the Office of Drug Control Policy and KY-ASAP shall:

- (1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;
- (2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

- (3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;
- (4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;
- (5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;
- (6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. The Office of Drug Control Policy and KY-ASAP shall identify gaps in information referral sources;
- (7) Search for grant opportunities for existing programs within the Commonwealth;
- (8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;
- (9) Observe programs from other states;
- (10) Coordinate services among local and state agencies, including but not limited to the Justice and Public Safety Cabinet, the Cabinet for Health and Family Services, the Department of Agriculture, the Public Protection Cabinet, the Administrative Office of the Courts, and the Education and ~~Labor~~~~Workforce Development~~ Cabinet;
- (11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;
- (12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;
- (13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;
- (14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;
- (15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;
- (16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;
- (17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;
- (18) Certify to the Governor, the secretary of the Justice and Public Safety Cabinet, and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with the Office of Drug Control Policy and KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of the Office of Drug Control Policy and KY-ASAP;

- (19) Promulgate, with the approval of the secretary of the Justice and Public Safety Cabinet, any administrative regulations necessary to implement this section and KRS 15A.340 and 15A.344; and
- (20) Report annually to the Legislative Research Commission and Governor regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the status of the Office of Drug Control Policy and KY-ASAP programs, services, and grants, and on other matters as requested by the Legislative Research Commission and Governor.

➔Section 16. KRS 40.345 is amended to read as follows:

- (1) The following definitions apply in this section unless context otherwise requires:
- (a) "Private employer" means a sole proprietor, corporation, partnership, limited liability company, or other entity with one (1) or more employees and excludes the state, a municipality, county, school district, or public institution of higher education; and
- (b) "Veterans' preference employment policy" means a private employer's voluntary preference for hiring, promoting, or retaining a veteran over another qualified applicant or employee.
- (2) A private employer may have a voluntary veterans' preference employment policy. The veterans' preference employment policy shall be in writing and applied uniformly to employment decisions regarding hiring, promotion, or retention during a reduction in workforce. The private employer may require the veteran to submit a Department of Defense form DD 214 as proof of eligibility for the veterans' preference employment policy. Granting preference under this section does not violate any local or state equal employment opportunity law, including but not limited to KRS Chapter 344.
- (3) The Department of Veterans' Affairs and the Education and ~~Labor~~~~Workforce Development~~ Cabinet may assist a private employer in determining the veteran's status as an applicant. The Education and ~~Labor~~~~Workforce Development~~ Cabinet may maintain an online registry of employers that have a voluntary veterans' preference employment policy as described in this section and may promulgate administrative regulations to assist in the creation of this policy.

➔Section 17. 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 ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~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 ~~Development~~~~Investment~~ as provided in paragraph (b) of this subsection.
- (b) 1. Each year the Department of Workforce ~~Development~~~~Investment~~ 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 ~~Development~~~~Investment~~ 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 18. KRS 45.001 is amended to read as follows:

- (1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.
- (2) The committee shall meet at least semiannually at a time and place announced by the chairperson.
- (3) The membership of the committee shall consist of the following members or their designees:
 - (a) The mayor of the city of Frankfort;
 - (b) The county judge/executive of Franklin County;
 - (c) The secretary of the Finance and Administration Cabinet;
 - (d) The secretary of the Tourism, Arts and Heritage Cabinet;
 - (e) The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet;
 - (f) The commissioner of the Kentucky Department of Tourism;
 - (g) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;
 - (h) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and
 - (i) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

- (4) The Governor shall appoint the chairperson of the committee.
- (5) Members of the committee shall serve without compensation.
- (6) The Finance and Administration Cabinet shall provide administrative support to the committee.

➔Section 19. 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 within the Education and ~~Labor~~~~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 20. KRS 61.168 is amended to read as follows:

- (1) As used in this section:
 - (a) "Body-worn camera" means a video or audio electronic recording device that is carried by or worn on the body of a public safety officer. This definition does not include a dashboard mounted camera or recording device used in the course of clandestine investigations;
 - (b) "Body-worn camera recording" or "recording" means a video or audio recording, or both, that is made by a body-worn camera during the course of a public safety officer's official duties;
 - (c) "Personal representative" means a court-appointed guardian, attorney, or agent possessing written authorization to act on behalf of a person that is involved in an incident contained in a body-worn camera recording, a person holding a power of attorney for a person that is involved in an incident contained in a body-worn camera recording, or the parent or guardian of a minor child depicted in a body-worn camera recording. If a person depicted in the recording is deceased, the term also means the personal representative of the estate of the deceased person, the deceased person's surviving spouse, parent, or adult child, the deceased person's attorney, or the parent or guardian of a surviving minor child of the deceased;
 - (d) "Public agency" has the same meaning as in KRS 61.870(1);
 - (e) "Public safety officer" means any individual that is an employee of a public agency who is certified as a first responder under KRS Chapter 311A or whose employment duties include law enforcement or firefighting activities; and
 - (f) "Use of force" means any action by a public safety officer that results in death, physical injury as defined in KRS 500.080(13), discharge of a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy weapon, or a firearm, or involves the intentional pointing of a public safety officer's firearm at a member of the public.
- (2) Except as provided in this section, the disclosure of body-worn camera recordings shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to 61.884.
- (3) The retention of body-worn camera video recordings shall be governed by KRS 171.410 to 171.740, and the administrative regulations promulgated by the Kentucky Department ~~for~~~~of~~ Libraries and Archives.
- (4) Notwithstanding KRS 61.878(4), unless the request meets the criteria provided under subsection (5) of this section, a public agency may elect not to disclose body-worn camera recordings containing video or audio footage that:
 - (a) Includes the interior of a place of a private residence where there is a reasonable expectation of privacy, unless the legal owner or lessee with legal possession of the residence requests in writing that the release be governed solely under the provisions of KRS 61.870 to 61.884;
 - (b) Includes the areas inside of a medical facility, counseling, or therapeutic program office where a patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment;
 - (c) Would disclose health care information shared with patients, their families, or with a patient's care team or that is considered protected health information under the Health Insurance Portability and Accountability Act of 1996;

- (d) Includes the areas inside of a correctional facility when disclosure would reveal details of the facility that would jeopardize the safety, security, or well-being of those in custody, the staff of the correctional facility, or law enforcement officers;
 - (e) Is of a sexual nature or video footage that contains nude images of an individual's genitals, pubic area, anus, or the female nipple;
 - (f) Is of a minor child, including but not limited to footage involving juvenile custody matters;
 - (g) Includes the body of a deceased individual;
 - (h) Would reveal the identity of witnesses, confidential law enforcement informants, or undercover law enforcement officers, or if the release could jeopardize the safety, security, or well-being of a witness or confidential informant;
 - (i) Would reveal the location information of a domestic violence program or emergency shelter;
 - (j) Would reveal information related to schools, colleges, and universities that is protected by the federal Family Educational Rights and Privacy Act;
 - (k) Would result in the disclosure of nonpublic or confidential data classified as Criminal Justice Information Services data by the Federal Bureau of Investigation;
 - (l) Includes a public safety officer carrying out duties directly related to the hospitalization of persons considered mentally ill;
 - (m) Includes the depiction of the serious injury or death of a public safety officer; or
 - (n) Includes footage made in conjunction with a law enforcement exercise that includes special response team actions, hostage negotiations, or training events, but only where the public release of tactics, operational protocol, or methodology would disadvantage the capability of public safety officers to successfully respond in emergency or other dangerous situations.
- (5) If the recording contains video or audio footage that:
- (a) Depicts an encounter between a public safety officer where there is a use of force, the disclosure of the record shall be governed solely by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein;
 - (b) Depicts an incident which leads to the detention or arrest of an individual or individuals, the disclosure of the record shall be governed solely by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein;
 - (c) Depicts an incident which is the subject of a formal complaint submitted against a public safety officer under KRS 15.520, 67C.326, or 95.450, or depicts an incident which is the subject of a formal legal or administrative complaint against the agency employing the public safety officer, the release of the record shall be governed by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein; or
 - (d) Is requested by a person or other entity or the personal representative of a person or entity that is directly involved in the incident contained in the body-worn camera recording, it shall be made available by the public agency to the requesting party for viewing on the premises of the public agency, but the public agency shall not be required to make a copy of the recording except as provided in KRS 61.169. The requesting parties shall not be limited in the number of times they may view the recording under this paragraph.
- (6) Nothing in this section or KRS 61.169 shall be interpreted to override any provision related to:
- (a) Reports by law enforcement officers and criminal justice agencies under KRS 17.150;
 - (b) The law and rules governing discovery or the submission and display of evidence in any court proceeding, whether criminal or civil, or any administrative proceeding; or
 - (c) The provisions of KRS 189A.100.

➔Section 21. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Board of Tax Appeals, Board of Claims, Crime Victims Compensation Board, and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	\$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary of for education and labor	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Commissioner of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice and public safety	50,000
Secretary of corrections	25,000
Commissioner for public health services	10,000
Secretary of labor	5,000
— Commissioner for natural resources	50,000
State librarian	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for energy and environment	50,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health and family services	20,000
Commissioner of environmental protection	10,000
Secretary of public protection	10,000
Secretary of tourism, arts and heritage	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000

Member of Board of Tax Appeals 10,000
 Member of Board of Claims.....10,000
 Member of Crime Victims Compensation Board.....10,000
 Associate member of Alcoholic Beverage Control Board5,000
 Commissioner of local government 100,000

➔Section 22. KRS 67A.6901 is amended to read as follows:

As used in KRS 67A.6901 to 67A.6911:

- (1) "Secretary" means the secretary of the cabinet;
- (2) "Corrections personnel" means an employee of an urban-county government permanently assigned to a detention facility and working in any capacity in that detention facility;
- (3) "Cabinet" means the **Education and**~~(Kentucky)~~ Labor Cabinet;
- (4) "Exclusive representative" means the labor organization which has been designated by the cabinet as the representative of the majority of police officers, firefighter personnel, firefighters, or corrections personnel in appropriate units or has been so recognized by the urban-county government;
- (5) "Firefighter" means an employee of an urban-county government engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;
- (6) "Firefighter personnel" means dispatch communications officers;
- (7) "Labor organization" means any chartered labor organization of any kind in which police officers, firefighter personnel, firefighters, or corrections personnel participate and which exists for the primary purpose of dealing with urban-county governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;
- (8) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers; and
- (9) "Police officer" means an employee, sworn or certified, of an urban-county government who participates in the Law Enforcement Foundation Program Fund provided in KRS 15.410 to 15.510.

➔Section 23. KRS 67C.400 is amended to read as follows:

As used in KRS 67C.400 to 67C.418:

- (1) "Cabinet" means the **Education and**~~(Kentucky)~~ Labor Cabinet;
- (2) "Labor organization" means any chartered labor organization of any kind in which police officers participate and which exists for the primary purpose of dealing with consolidated local governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;
- (3) "Exclusive representative" means the labor organization which has been designated by the cabinet as the representative of the majority of police officers in appropriate units or has been so recognized by the consolidated local government;
- (4) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers; and
- (5) "Secretary" means the secretary of the **Education and** Labor Cabinet of the Commonwealth of Kentucky.

➔Section 24. KRS 96A.095 is amended to read as follows:

- (1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Health and Family Services and the Department of Workforce **Development**~~(Investment)~~, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation

Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:

- (a) A local transit authority as created under this chapter;
 - (b) A city;
 - (c) A county;
 - (d) Other public mass transit providers;
 - (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
 - (f) An entity providing human service transportation delivery.
- (2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:
- (a) A local transit authority as created under this chapter;
 - (b) A city;
 - (c) A county;
 - (d) Other public mass transit providers;
 - (e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
 - (f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

- (3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.
- (4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS Chapters 45A and 281, with a broker to provide human service transportation delivery within a specific delivery area.

➔Section 25. 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 ~~for the Department of Workforce Investment~~ in the Education and ~~Labor~~~~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 26. KRS 147A.115 is amended to read as follows:

- (1) By December 31 of each year beginning in 2017, the Cabinet for Health and Family Services and the Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet shall, following any year in which the cabinet awarded federal or state funds to an area development district, prepare and submit a detailed report to the Legislative Research Commission and area development district board members. The report shall include the total amount of state and federal funds distributed to each area development district, broken down by funding source and program from the preceding fiscal year.
- (2) By December 31 of each year beginning in 2017, each area development district shall, following any year in which the area development district receives state or federal funds, prepare and submit a detailed report to the Legislative Research Commission and area development board members. The report shall include the following financial information from the preceding fiscal year:
 - (a) For each allocation, distribution, award, or grant of state or federal funds, the total amount, the percentage of the total amount, and a description of the specific types of expenditures made for or allocated to:
 - 1. Administrative costs;
 - 2. Direct expenditures; and
 - 3. Indirect expenditures;
 - (b) Allocation, distribution, award, or grant funds not expended, and an explanation of why the funds were not expended;

- (c) The total amount of reserves carried forward by the area development district, identification of the source of those funds, and an explanation of why the funds are being carried forward; and
- (d) For each program:
 - 1. A list of direct services provided by the district;
 - 2. A list of service providers contracted by the district and the services provided by those providers;
 - 3. The number of eligible persons for the program, number of persons served by the program, and, if applicable, number of people on waiting lists for the program; and
 - 4. The performance measures required by the contract used to evaluate the area development district's actions.

- (3) The Legislative Research Commission shall distribute the report to the appropriate interim joint committees and to the budget review subcommittee that has jurisdiction over the Cabinet for Health Family Services or the Education and ~~Labor~~~~Workforce Development~~ Cabinet.

➔Section 27. KRS 148.562 is amended to read as follows:

- (1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:
 - (a) Secretary of the Tourism, Arts and Heritage Cabinet, or his or her designee;
 - (b) Secretary of the Transportation Cabinet, or his or her designee;
 - (c) Secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet, or his or her designee;
 - (d) Secretary of the Finance and Administration Cabinet, or his or her designee;
 - (e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and
 - (f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.
- (2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:
 - (a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;
 - (b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;
 - (c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and
 - (d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.
- (3) The Governor shall appoint a chair from among the members of the board.
- (4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.
- (5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

➔Section 28. KRS 148.585 (Effective until January 1, 2027) is amended to read as follows:

- (1) As used in this section:
 - (a) "Commission" means the Harrodsburg Sestercentennial Commission established in subsection (2) of this section; and
 - (b) "Sestercentennial" means the two hundred fiftieth anniversary of the founding of Harrodsburg on June 16, 1774.

- (2) The Harrodsburg Sestercentennial Commission is hereby established to plan, encourage, develop, and coordinate events and other activities related to the two hundred fiftieth anniversary of Harrodsburg in 2024. To accomplish its charge, the commission shall:
- (a) Ensure that adequate way-finding signage and mapping is accomplished to mark and identify Old Fort Harrod State Park;
 - (b) Educate citizens of the Commonwealth and the nation about the stories of pioneers and Native Americans in the early days of westward settlement and the impact Harrodsburg and settlements of its nature had on Kentucky and American history;
 - (c) Plan and implement events for a year-long sestercentennial commemoration in the year 2024 of the founding of Harrodsburg and whatever events in the immediately preceding and following years are deemed appropriate by the commission, including any battlefield commemorations if funds are available;
 - (d) Assist local governments and their representatives with planning, preparation, and grant applications for sestercentennial events and projects;
 - (e) Coordinate federal, state, local, and nonprofit organizations' sestercentennial activities occurring in Kentucky;
 - (f) Coordinate events and activities with parties, commissions, and organizations wishing to participate in the 2024 commemoration;
 - (g) Act as a point of contact for national organizations wishing to distribute information to state and local groups about grant opportunities, meetings, and national events related to the settlement of Harrodsburg and sestercentennial activities;
 - (h) Seek funding sources such as foundations, line item appropriations, federal grants, philanthropic organizations, and lineage societies;
 - (i) Create press, print, and electronic contacts that generate stories on a continual basis;
 - (j) Encourage and contract new publications and create a call for papers on Harrodsburg, Fort Harrod, James Harrod, or other participating or involved parties, and how the history of this early frontier settlement impacted American history;
 - (k) Organize symposiums and other methodologies to investigate genealogy relative to Harrodsburg;
 - (l) Create higher and lower educational programs;
 - (m) Perform other duties necessary to educate Kentuckians on the history of Harrodsburg and early frontier settlements and on the Commonwealth's role in early westward expansion;
 - (n) Evaluate the existing infrastructure of Old Fort Harrod State Park, provide recommendations for what infrastructure should be in place for the successful undertaking of appropriate events and activities in accordance with this section, and coordinate with state and local bodies to make necessary infrastructure improvements; and
 - (o) Coordinate planning for the sestercentennial with the nonprofit organization Harrodsburg 250th, Inc., this organization having been established by the local governments of Harrodsburg and Mercer County to serve as the point of contact for local planning for the sestercentennial.
- (3) The commission shall consist of the following eleven (11) members:
- (a) The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or his or her designee;
 - (b) The secretary of the Transportation Cabinet or his or her designee;
 - (c) Two (2) members from the Tourism, Arts and Heritage Cabinet, appointed by the secretary of the cabinet;
 - (d) One (1) member from the Kentucky Heritage Council, appointed by the state historic preservation officer;
 - (e) One (1) member of the Kentucky Humanities Council, appointed by the chair of the council;

- (f) One (1) member of Harrodsburg 250th, Inc., recommended by the chair of that organization and appointed by the Governor;
 - (g) One (1) member of the Friends of Fort Harrod, recommended by the leader of that organization and appointed by the Governor; and
 - (h) Three (3) citizen members appointed by the Governor, one (1) of whom shall be designated as the chair.
- (4) The Harrodsburg Sestercentennial Commission shall be attached to the Kentucky Historical Society for administrative purposes only.
- (5) This section shall expire on January 1, 2027.

➔Section 29. KRS 148.587 (Effective until January 1, 2027) is amended to read as follows:

- (1) As used in this section:
- (a) "Commission" means the Kentucky Sestercentennial Commission established in subsection (2) of this section; and
 - (b) "Sestercentennial" means the two hundred fiftieth anniversary of historic events from 1774 to 1776 that include the founding of Harrodsburg in 1774, the opening of Boone Trace in 1775, the genesis of westward movement, and the important events tied to our nation's founding in 1776.
- (2) The Kentucky Sestercentennial Commission is hereby established to plan and implement events to celebrate the two hundred fiftieth anniversary of Old Fort Harrod in 2024, culminating with the Declaration of Independence in 1776. To accomplish its charge, the commission shall:
- (a) Elect a chair of the commission and have the authority to form subcommittees and working groups that include non-commission members in order to plan, develop, and coordinate specific activities;
 - (b) Plan, encourage, develop, and coordinate the commemoration of the two hundred fiftieth anniversary of the founding of the United States and recognize Kentucky's integral role in that event and the impact of its people on the nation's past, present, and future;
 - (c) Ensure that adequate way-finding signage and mapping is accomplished to mark and identify the relevant points of interest and routes involved in the founding of Kentucky and the opening of the west;
 - (d) Educate citizens of the Commonwealth and the nation about the stories of pioneers, African Americans, and Native Americans in the early days of westward settlement and the impact Fort Harrod and Fort Boonesborough had on Kentucky and American history;
 - (e) Plan and implement events for a three (3) year sestercentennial commemoration of the years 2024 to 2026 and following years deemed appropriate by the commission, including any battlefield commemorations if funds are available;
 - (f) Assist local governments with planning, preparation, and grant applications for sestercentennial events and projects;
 - (g) Coordinate federal, state, local, and nonprofit organizations' sestercentennial activities occurring in Kentucky;
 - (h) Coordinate events and activities with parties, commissions, and organizations wishing to participate in the commemoration;
 - (i) Seek funding sources such as foundations, line item appropriations, federal grants, philanthropic organizations, and lineage societies;
 - (j) Establish press, print, and electronic contacts that generate stories on a continual basis;
 - (k) Encourage and contract new publications and create a call for papers on how the history of this early frontier settlement impacted American history;
 - (l) Organize symposiums and other methodologies to investigate genealogy relative to the events involved in the founding of Kentucky and opening of the west;
 - (m) Create higher and lower educational programs; and

- (n) Perform other duties necessary to educate Kentuckians on the history of early frontier settlements and on the Commonwealth's role in early westward expansion and to highlight the importance of the years 1774 to 1776 to Kentucky history.
- (3) The commission shall consist of the following fourteen (14) members:
- (a) The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or his or her designee;
 - (b) One (1) member from the Tourism, Arts and Heritage Cabinet appointed by the secretary of the cabinet;
 - (c) One (1) member from the Kentucky Heritage Council, appointed by the state historic preservation officer;
 - (d) One (1) member from the Kentucky Humanities Council, appointed by the chair of the council;
 - (e) One (1) member of the Friends of Fort Harrod, recommended by the leader of that organization and appointed by the Governor;
 - (f) Three (3) citizen members appointed by the Governor, one (1) of whom shall be designated as the chair;
 - (g) The commissioner of the Department of Parks or his or her designee;
 - (h) The president of Friends of Boone Trace, Inc. or his or her designee;
 - (i) The president of the Fort Boonesborough Foundation, or his or her designee;
 - (j) One (1) member from the Kentucky African American Heritage Commission appointed by the chair of that commission;
 - (k) One (1) member of the Kentucky Native American Heritage Commission appointed by the chair of that commission; and
 - (l) One (1) member of the Kentucky Historical Society appointed by the executive director of the society.
- (4) The Kentucky Sestercentennial Commission shall be attached to the Kentucky Historical Society for administrative purposes only.
- (5) This section shall expire on January 1, 2027.
- ➔Section 30. KRS 151B.132 is amended to read as follows:
- (1) The Office of the Kentucky Center for Statistics is hereby established and attached to the Education and ~~Labor~~~~Workforce Development~~ Cabinet, Office of the Secretary.
 - (2) The office's purpose is to collect accurate 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 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 Kentucky Higher Education Assistance Authority;
 - (e) The Kentucky Commission on Proprietary Education; and
 - (f) Other agencies of the Education and ~~Labor~~~~Workforce Development~~ Cabinet.
 - (5) The Kentucky Longitudinal Data System, upon approval of the board, may include 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 data to the Kentucky Longitudinal Data System.
- (7) Any 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 31. KRS 151B.134 is amended to read as follows:

- (1) The Board of the Kentucky Center for Statistics is hereby established and attached to the Education and ~~Labor~~~~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 of the Cabinet for Health and Family Services or designee;
 - (c) The president of the Council on Postsecondary Education or designee;
 - (d) The secretary of the Education and ~~Labor~~~~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 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 ~~Labor~~~~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 32. KRS 151B.185 is amended to read as follows:

- (1) The Office of Vocational Rehabilitation is hereby created within the Education and ~~Labor~~~~Workforce Development~~ Cabinet, Department of Workforce ~~Development~~~~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, 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 ~~Labor/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 ~~Labor/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 ~~Labor/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 ~~Labor/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 33. 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. secs. 701 et seq. 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.
- (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 ~~Labor/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 ~~*Innovation 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.
- (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.
 - (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 34. KRS 151B.402 is 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) The Office of Adult Education within the Department of Workforce ~~*Development Investment*~~ in the Education and ~~*Labor Workforce Development*~~ Cabinet 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)(a) of this section and that qualify the employer for tax credits under subsection (4) of the section.
- (3) (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) 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 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 35. KRS 151B.403 is amended to read as follows:

- (1) The Office of Adult Education within the Department of Workforce ~~Investment~~ *Development* in the Education and ~~Labor~~ *Workforce Development* Cabinet 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 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 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 36. KRS 151B.406 is amended to read as follows:

- (1) The Office of Adult Education is created within the Department of Workforce ~~Investment~~ *Development* in the Education and ~~Labor~~ *Workforce Development* Cabinet to carry out the statewide adult education mission. The office 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 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 KRS 151B.409.
- (2) The Office of Adult Education shall be organized in a manner as directed by the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet. The office shall be headed by an executive director appointed by the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet.
 - (3) The Office of Adult 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 37. KRS 151B.407 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the High School Equivalency Diploma program.
- (3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet 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.
- (4) The foundation shall be attached to the office of the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet for administrative purposes.

➔Section 38. KRS 151B.409 is amended to read as follows:

- (1) There is created in the Education and ~~Labor~~~~Workforce Development~~ Cabinet 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 June 27, 2019, shall remain in the fund and be transferred to the Education and ~~Labor~~~~Workforce Development~~ Cabinet 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 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. 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 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 39. KRS 151B.450 is amended to read as follows:

As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

- (1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life;
- (2) "Board" means the board of directors of the Kentucky Assistive Technology Loan Corporation;
- (3) "Cabinet" means the Education and ~~Labor~~~~Workforce Development~~ Cabinet;
- (4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created under KRS 151B.455;
- (5) "Fund" means the Kentucky assistive technology loan fund created under KRS 151B.470;
- (6) "Qualified borrower" means an individual with a disability that affects a major life activity such as mobility, sensory and cognitive communications, or self-care, a parent or legal guardian of an individual with a disability, or a nonprofit organization that provides assistive technology to individuals with disabilities who meet the criteria for participating in the Kentucky assistive technology loan fund; and
- (7) "Qualified lender" means a financial lending institution or other qualified organization contracted with by the corporation to provide loans for the purchase of assistive technology.

➔Section 40. KRS 151B.455 is amended to read as follows:

- (1) The Kentucky Assistive Technology Loan Corporation 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 purpose of improving the quality of life for disabled persons who are residents of the Commonwealth of Kentucky by providing the ability to obtain low-interest loans to qualified borrowers for the acquisition of assistive technology.
- (2) The corporation shall be governed by a board of directors consisting of seven (7) members as follows:
 - (a) The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or the secretary's designated representative;
 - (b) One (1) attorney with lending expertise;
 - (c) One (1) representative of a financial lending institution; and
 - (d) Four (4) public members with a knowledge of assistive technology representing a range of disabilities.
- (3) All board members shall be residents of the Commonwealth of Kentucky and all, with the exception of the secretary or the secretary's designee, shall be appointed by the Governor. Each public member shall be an individual with a disability, a parent of an individual with a disability, or a legal representative of an individual with a disability. In making appointments the Governor shall seek recommendations from disability-related associations and organizations representing the categories of disabilities for which appointments are being made.
- (4) For initial appointments to the board, two (2) public members shall be appointed for terms of four (4) years each, two (2) public members for terms of three (3) years each, the attorney member for a term of two (2) years, and the member representing a financial lending institution for a term of one (1) year. All succeeding terms shall be for a period of four (4) years each, and each appointee shall serve for the appointed term and until a successor has been appointed and has duly qualified. No person shall serve more than two (2) successive full terms.
- (5) If a vacancy on the board occurs, the Governor shall appoint a replacement who shall hold office during the remainder of the term vacated.
- (6) The Governor may remove any board member 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. If a board member is so removed, he or she may appeal. Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

➔Section 41. KRS 151B.460 is amended to read as follows:

- (1) At the first board meeting following initial appointment of all board members, the board shall elect a chair from its membership, and a chair shall be elected annually thereafter.
- (2) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies on the board of directors.
- (3) The board of directors shall meet at least once a quarter, and may meet at other times upon call of the chair or at the request of a majority of board members, and with a minimum of seven (7) days' notice.
- (4) Board members shall receive no compensation for their services but may be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under KRS 151B.450 to 151B.475, subject to the availability of funding.
- (5) If any board member has a direct or indirect interest in any qualified lender or any organization serving as a qualified borrower, the interest shall be disclosed and set forth in the minutes of the board, and the board member having the interest shall not participate in any action involving the organization in which he or she has the interest.
- (6) The Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet shall provide technical, clerical, and administrative assistance to the board, together with necessary office space and personnel, and shall provide any other services and support necessary for the board to perform its functions. The cabinet shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers which constitute the official records of the corporation. The board may enter into a contract with the cabinet as may be proper and appropriate for the provision of these services.

➔Section 42. KRS 151B.470 is amended to read as follows:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of moneys that may be appropriated by the General Assembly, gifts, bequests, endowments, or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public and private. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be continuously appropriated only for the purposes specified in this section. Interest and income earned from the investment of funds shall remain in the fund and be credited to it.
- (2) The fund shall be used to provide loans to qualified borrowers within the Commonwealth for the purpose of acquiring assistive technology designed to help individuals with disabilities become more independent. Loans shall be made to qualified borrowers through qualified lenders with the fund being used as appropriate to negotiate reduced interest rates, to buy down interest rates, and to provide loan guarantees.
- (3) The fund shall be under the administrative control of the board.
- (4) If the corporation is dissolved, any unencumbered moneys appropriated by the General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet to be expended for programs and services for Kentuckians with disabilities.

➔Section 43. KRS 154.10-010 is amended to read as follows:

- (1) (a) The Kentucky Economic Development Partnership, a board governing the Cabinet for Economic Development, is created and established, performing essential governmental and public functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through sustainable economic development, as prescribed in KRS 154.1-020.
- (b) The board shall have reorganization powers and authority as prescribed in KRS 12.028 and shall constitute an administrative body as defined in KRS 12.010, but it and the cabinet shall not be subject to reorganization by the Governor, KRS Chapter 12 notwithstanding.
- (c) The board shall serve as the governing body of the cabinet and shall exercise all powers and authorities conferred upon it by statute, including, but not limited to, the following functions:

1. Strategic planning;
 2. Finance;
 3. Business assistance;
 4. Marketing and promotion;
 5. Community development;
 6. Workforce development;
 7. Innovation; and
 8. All economic development powers and authorities not specifically conferred by statute to another agency or authority of state government.
- (2) The board shall consist of thirteen (13) voting members and two (2) nonvoting members. The thirteen (13) voting members shall consist of the Governor, the secretary of the Finance and Administration Cabinet, the secretary of the Public Protection Cabinet, the secretary of the Energy and Environment Cabinet, the secretary of the *Education and* Labor Cabinet, and eight (8) private sector members who shall be appointed by the Governor. The secretary of the Governor's Executive Cabinet shall serve as a voting member upon the absence of the Governor. The secretary of the Cabinet for Economic Development and the secretary of the Tourism, Arts and Heritage Cabinet shall serve as nonvoting members.
- (3) The governing bodies of each of the following organizations shall nominate two (2) persons from each of the six (6) Congressional districts of the Commonwealth and two (2) persons from the state at large, as candidates for appointment as private sector members to the board:
- (a) The Kentucky Association for Economic Development;
 - (b) The Kentucky Association of Manufacturers;
 - (c) The Kentucky State AFL-CIO;
 - (d) The Kentucky Farm Bureau Federation;
 - (e) The Kentucky Chamber of Commerce; and
 - (f) The National Federation of Independent Businesses/Kentucky.
- (4) The Governor shall select the original eight (8) private sector members from the aggregation of the lists provided pursuant to subsection (3) of this section, with at least one (1) appointment being chosen from each organization's list and at least one (1) appointment being chosen from each Congressional district. Appointments to vacancies shall be made in the same manner as prescribed in this subsection and subsection (3) of this section, except that there is no requirement that the vacancy be filled from the same organization's list as the original appointment.
- (5) All appointments shall be for four (4) years.
- (6) In making appointments to the board, the Governor shall assure broad geographical representation, as well as representation from the major sectors of Kentucky's economy by leading executives with a knowledge of the problems of large and small businesses, local economic development, and the transfer of research and development from the laboratory to the marketplace. In filling vacancies, the Governor shall assure the continuing representation on the board of broad constituencies of Kentucky's economy, including manufacturing and agriculture.
- (7) Vacancies on the board which may occur from time to time shall be filled as follows:
- (a) Any vacancy which occurs shall be filled for the unexpired term in accordance with the procedures established in subsections (3) and (4) of this section.
 - (b) If any private sector member misses more than two (2) consecutive meetings of the board, then that position shall be declared vacant and filled in accordance with this section.
- (8) The board shall meet semiannually and at other times upon call of the chairman or a majority of the board.
- (9) A quorum shall be a majority of the voting membership of the board.

- (10) A quorum shall be required to organize and conduct the business of the board, except that an affirmative vote of seven (7) or more members of the entire board shall be required to terminate the employment of the cabinet's secretary, and to adopt or amend the strategic plan.
- (11) Private sector members shall serve without compensation but shall be reimbursed for all reasonable, necessary, and actual expenses.
- (12) All existing duties, responsibilities, functions, personnel, programs, funds, obligations, records, and real and personal property of the Cabinet for Economic Development, as of July 14, 1992, shall be under the authority and control of the board.

➔Section 44. 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 Department of Workforce ~~Development~~^{Investment} within the Education and ~~Labor~~^{Workforce Development} Cabinet.

➔Section 45. KRS 154.12-203 is amended to read as follows:

- (1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.
- (2) It shall be the purpose of the Kentucky Commission on Military Affairs to:
 - (a) Address matters of military significance to Kentucky;
 - (b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;
 - (c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;
 - (d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;
 - (e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;
 - (f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

- (g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;
 - (h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky;
 - (i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and
 - (j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.
- (3) The Kentucky Commission on Military Affairs shall consist of:
- (a) The Governor or a designated representative;
 - (b) The secretary of the Cabinet for Economic Development or a designated representative;
 - (c) The adjutant general of the Commonwealth or a designated representative;
 - (d) The executive director of the Office of Homeland Security or a designated representative;
 - (e) The secretaries of the following cabinets or their designees:
 1. Finance and Administration;
 2. Justice and Public Safety;
 3. Energy and Environment;
 4. Transportation;
 - ~~5. Education and Workforce Development;~~
 - 5.~~6.~~ Health and Family Services;
 - 6.~~7.~~ Personnel;
 - 7.~~8.~~ *Education and* Labor;
 - 8.~~9.~~ Public Protection; and
 - 9.~~10.~~ Tourism, Arts and Heritage;
 - (f) The Attorney General or a designated representative;
 - (g) The commissioner of the Department of Veterans' Affairs or a designated representative;
 - (h) The executive director of the Kentucky Commission on Military Affairs or a designated representative;
 - (i) The chairperson of the Kentucky Committee for Employer Support of the Guard and Reserve;
 - (j) Kentucky's Civilian Aides to the Secretary of the United States Army;
 - (k) The chairperson of the Senate Veterans, Military Affairs, and Public Protection Committee and the chairperson of the House of Representatives Veterans, Military Affairs, and Public Safety Committee;
 - (l) The Chief Justice or a designated representative;
 - (m) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:
 1. U.S. Army Cadet Command;
 2. U.S. Army Human Resources Command;
 3. U.S. Army Recruiting Command;
 4. 84th Training Command;
 5. One Hundredth Division (Institutional Training);

6. 101st Airborne Division;
 7. Blue Grass Army Depot;
 8. Fort Campbell Garrison;
 9. Fort Knox Garrison;
 10. 11th Theatre Aviation Command, U.S. Army Reserve;
 11. U.S. Army Corps of Engineers, Louisville District;
 12. Adjutant General of the U.S. Army;
 13. U.S. Coast Guard Sector Ohio Valley;
 14. First Army Division East;
 15. 1st Theater Sustainment Command; and
 16. Fifth (V) Corps; and
- (n) Five (5) at-large members appointed by the Governor, who shall be residents of counties significantly impacted by military installations.
- (4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.
- (5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.
- (b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.
- (c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.
- (6) The commission shall meet one (1) time each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.
- (7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.
- (8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.
- (9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.
- (10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.
- (11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.
- (12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

➔Section 46. KRS 154.12-205 is amended to read as follows:

- (1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The

corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

- (2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of qualified companies.
- (3) The corporation shall be governed by a board of directors consisting of *seventeen (17)*~~*eighteen (18)*~~ members, including the following *five (5)*~~*six (6)*~~ ex officio members: the commissioner of the Department of Workforce *Development*~~*Investment*~~ or his or her designee, the secretary of the Cabinet for Economic Development, the secretary of the *Education and Labor* Cabinet, the president of the Council on Postsecondary Education, ~~the secretary of the Education and Workforce Development Cabinet,~~ and the president of the Kentucky Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.
- (4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.
- (5) Any member may be removed from his appointment by the Governor for cause.
- (6) The Governor shall designate a member of the board as its chairman.
- (7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars (\$100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.
- (8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.
- (9) The Cabinet for Economic Development shall provide staff and support services to the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.
- (10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

➔Section 47. 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 Department of Workforce ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~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 48. 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 site as 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 Department of Workforce ~~Investment~~ **Development** in the Education and ~~Labor~~ **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 49. 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 Department of Workforce ~~Investment~~ **Development** in the Education and ~~Labor~~ **Workforce Development** Cabinet.

➔Section 50. 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;

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- (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 Department of Workforce ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~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 51. 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 Department of Workforce ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~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 Department of Workforce ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~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 65.210 to 65.300, 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 52. 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 Department of Workforce ~~Development~~~~Investment~~ within the Education and ~~Labor~~~~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 53. 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 Department of Workforce ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~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 54. 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 Department of Workforce ~~Development~~~~Investment~~ within the Education and ~~Labor~~~~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 55. KRS 154.26-080 is amended to read as follows:

- (1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (2) The criteria for approval of eligible companies and economic revitalization projects or supplemental projects shall include but not be limited to the:
 - (a) Need for the project;
 - (b) New capital investment in the project or supplemental project that will result in financial stability for the manufacturing or coal mining and processing facility; and
 - (c) Retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.
- (3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including but not limited to written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will:
 - (a) Close its manufacturing or coal mining and processing facility; and
 - (b) Permanently lay off its employees and cease operations; or
 - (c) Not resume operations of a closed facility as permitted by KRS 154.26-010(9).
- (4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including but not limited to financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility or not resume operations of the facility as permitted by KRS 154.26-010(9); and set out alternatives that are available to the company.
- (5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.
- (6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet, and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.
- (7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), (9), or (11) of this section.
- (8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the

independent judgment of the consultant, the company will close the facility or not resume operations of the facility as permitted by KRS 154.26-010(9) absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.

- (9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility or not resume operations of the facility as permitted by KRS 154.26-010(9).
- (10) After a review of relevant materials and completion of 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 revitalization project.
- (11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons or whether it intends or is able to resume operations of the facility in accordance with the requirements of KRS 154.26-010(10)(b) if inducements are granted. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.
- (12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.
- (13) After the public hearing, the authority, by resolution, may:
 - (a) Declare the jobs then existing at the facility to be lost or the company unable to resume operations as permitted by KRS 154.26-010(9);
 - (b) Give its final approval to the eligible company's application for a project; and
 - (c) Grant to the eligible company the status of an approved company.

The decision reached by the authority shall be final and no appeal shall be granted.

- (14) (a) During the initial term of an agreement, or within sixty (60) months after the expiration of the term, an eligible company may apply for, and the authority may approve, a supplemental project when the applicant:
 1. Has expended approved costs of at least fifty million dollars (\$50,000,000) on an approved economic revitalization project;
 2. Employs a minimum of one hundred (100) employees at the site of the economic revitalization project;
 3. Agrees to incur at least five million dollars (\$5,000,000) in additional eligible costs for improvements to a blast furnace that:
 - a. Is located at the economic revitalization project;
 - b. Has burned at least one million (1,000,000) tons of Kentucky coal during the initial term of the agreement; and
 - c. Was idled due to unfairly traded imports of carbon steel, with resulting layoffs of more than five hundred fifty (550) employees; and
 4. Is at risk of closure and carries a significant net loss carry forward for the last three (3) tax years as certified by the approved company.
- (b) The authority may approve a supplemental project by resolution, authorizing the execution of a supplemental project agreement.
- (15) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

➔Section 56. KRS 154.27-090 is amended to read as follows:

- (1) An approved company may be eligible for the advance disbursement of a portion of the post-construction period incentives for which it has been approved. The amount of the advance disbursement shall be based on

the employment of Kentucky residents during the construction of the facility, shall be negotiated with the authority as part of the tax incentive agreement, and shall not exceed the limitations established by this section.

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

required tax payments, and provide to the department and the authority any information that would normally be required for the approved company to receive the incentives.

- (5) The authority may, for purposes of administering the provisions of this section, solicit information or consultation from one (1) or more of the following sources:
- (a) The Office of Energy Policy;
 - (b) The Center for Applied Energy Research;
 - (c) The Department ~~offor~~ Workforce **Development**~~Investment~~; or
 - (d) Any public postsecondary education institution within the Commonwealth.

➔Section 57. 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 Department of Workforce **Development**~~Investment~~ in the Education and **Labor**~~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 58. 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 Department of Workforce ~~Development~~~~Investment~~ **Labor**~~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 65.210 to 65.300.

- (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 59. KRS 154.47-055 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS Chapter 151B, the University of Kentucky, Eastern Kentucky University, Morehead State University, and the Kentucky Community and Technical College System in conjunction with the Department of Workforce ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet may develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study.
- (2) The integrated workforce training program and the curricula shall be designed in a manner that shall provide postsecondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

➔Section 60. KRS 154.47-075 is amended to read as follows:

- (1) The Kentucky Division of Forestry shall develop and implement a program to provide training and assistance to private woodland owners in best management practices of forest development and sustainability. The training and assistance program shall provide advice and assistance in matters relating to productivity, management priorities, stewardship, planning, timber quality, forest improvement, and proper ecological management.
- (2) The *Education and* Labor Cabinet, the Division of Forestry, and representatives from the University of Kentucky, Eastern Kentucky University, and Morehead State University, shall develop and implement a program to provide training and assistance in the area of worker safety for both the primary and secondary wood industry.

➔Section 61. KRS 156.029 is amended to read as follows:

- (1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) voting members appointed by the Governor and confirmed by the Senate of the General Assembly, with the president of the Council on Postsecondary Education and the secretary of the Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet serving as ex officio nonvoting members, and an active public elementary or secondary school teacher and a public high school student appointed by the board as described in subsection (3) of this section serving as nonvoting members. Seven (7) voting members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) voting members shall represent the state at large. Each of the voting members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate for confirmation in accordance with KRS 11.160.
- (2) Appointments of the voting members shall be made without reference to occupation. No voting member at the time of his or her appointment or during the term of his or her service shall be engaged as a professional educator. Beginning with voting members appointed on or after June 29, 2021, appointments to the group of members representing Supreme Court districts and to the group of at-large members, respectively, shall reflect equal representation of the two (2) sexes, inasmuch as possible; reflect no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment; and reflect the minority racial composition of the Commonwealth based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number. A particular political affiliation shall not be a prerequisite to appointment to the board generally; however, if any person is appointed to the board that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the board less any members not affiliated with either of the two (2) leading political parties. Pursuant to KRS 63.080, a member shall not be removed except for cause or, beginning with voting members appointed on or after June 29, 2021, in accordance with KRS 63.080(3). Notwithstanding KRS 12.028, the board shall not be subject to reorganization by the Governor.

- (3) The nonvoting teacher and student members shall be selected by the board from the state's six (6) congressional districts on a rotating basis from different districts. The public high school student shall be classified as a junior at the time of appointment. The teacher and student members shall serve for a one (1) year term, except the initial appointments shall serve a term which shall expire on April 14, 2022. The board shall promulgate an administrative regulation establishing the process for selecting the nonvoting teacher and student members.
- (4) A vacancy in the voting membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate shall be obtained during the time the General Assembly next convenes.
- (5) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.
- (6) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.
- (7) The commissioner of education shall serve as the executive secretary to the board.
- (8) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

➔Section 62. KRS 156.740 is amended to read as follows:

- (1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex officio capacity:
 - (a) The chairman of the Council on Postsecondary Education;
 - (b) The president of the Council on Postsecondary Education;
 - (c) The chairman of the Kentucky Board of Education;
 - (d) The commissioner of the Department of Education;
 - (e) The commissioner of the Department of Workforce *Development*~~Investment~~;
 - (f) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and
 - (g) The president of the Kentucky Community and Technical College System.
- (2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

➔Section 63. KRS 156.749 is amended to read as follows:

- (1) Administrative expenses of the commission will be borne by the respective participating agencies, as a part of each agency's normal budget for basic operations. In each year, the agency represented by the chairman shall provide any necessary staff support required, including provision of a secretary, whose duties shall include the taking of minutes and distribution thereof. The agency represented by the chairman shall make arrangements for meeting facilities.
- (2) All meetings will be held in Frankfort, Kentucky, upon the call of the chairman or a majority vote of the membership. In the initial year, the commissioner of the Department of Workforce *Development*~~Investment~~ shall serve as chairperson.

➔Section 64. KRS 156.806 is amended to read as follows:

- (1) The commissioner of education shall establish and appoint members to a Career and Technical Education Advisory Committee to advise the Department of Education on the development of a robust and effective career and technical education program.

- (2) The committee shall include representatives of business, industry, and the Kentucky Community and Technical College System; the commissioner of the Department of Workforce **Development**~~Investment~~; and any other individuals deemed appropriate by the commissioner of education.

➔Section 65. KRS 156.848 is amended to read as follows:

- (1) The executive director of the Office of Adult Education within the Department of Workforce **Development**~~Investment~~ in the Education and **Labor**~~Workforce Development~~ Cabinet 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 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 66. KRS 157.910 is amended to read as follows:

- (1) There is hereby established the Kentucky Environmental Education Council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses, and public interests. The council shall be an independent agency and be attached to the Education and **Labor**~~Workforce Development~~ Cabinet for administrative purposes.
- (2) The nine (9) member council shall be appointed to four (4) year terms by the Governor and be composed of a balance of education, government, industry, and environmental interests. Members appointed by the Governor shall have the authority to carry out the provisions of KRS 157.900 to 157.915.
- (3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.
- (4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.
- (5) The council membership shall elect a chairperson to serve a one (1) year term.

➔Section 67. KRS 157.921 is amended to read as follows:

- (1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education and **Labor**~~Workforce Development~~ Cabinet for administrative purposes.
- (2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:
- (a) Three (3) representatives from postsecondary institutions;
 - (b) One (1) representative from the Council for Social Sciences;
 - (c) Six (6) representatives from elementary and secondary schools;
 - (d) One (1) representative of the Department of Education; and
 - (e) One (1) representative of the Council on Postsecondary Education.
- (3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws

governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

- (4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

➔Section 68. 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) years or until his or her successor is duly qualified. A member may be reappointed, but 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 ~~Labor~~~~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 is negligent in carrying out its duties as specified in the request for proposal and contract. The administrator for the center 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 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 employees of the administrator of the center.
- (7) 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 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) 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 KRS 158.442;
 - (b) Approve a school security risk assessment tool and updates as necessary in accordance with KRS 158.4410 to be incorporated by reference within an administrative regulation promulgated in accordance with KRS Chapter 13A; and
 - (c) Within one (1) year of March 11, 2019, 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) 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 69. KRS 158.6485 is amended to read as follows:

- (1) The Governor's School for Entrepreneurs Program is established as a statewide summer experiential education program for creative and enterprising students to enhance the next generation of business and economic leaders and enrich future economic development across the Commonwealth. The Governor's School for Entrepreneurs Program shall be attached to the Office of the Secretary in the Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet for administrative purposes.
- (2) As used in this section, "entrepreneurship education organization" means a not-for-profit organization that has:
- (a) Received tax-exempt status from the United States Internal Revenue Service;
 - (b) Registered with the Office of the Kentucky Secretary of State;
 - (c) A statewide mission to generate interest and knowledge in entrepreneurship; and
 - (d) A history of operating education programs focused on entrepreneurship.
- (3) (a) The Governor or the Governor's designee from the executive cabinet, the commissioner of education, the president of the Council on Postsecondary Education, and the secretary of the Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet shall serve as ex officio members of an advisory board to the Governor's School for Entrepreneurs Program. In addition, the Governor shall appoint five (5) members to the advisory board as provided in paragraph (b) of this subsection.
- (b) By July 31, 2016, the Governor shall appoint five (5) initial members of the advisory board to serve as follows:
1. One (1) shall be appointed to serve a three (3) year term;
 2. Two (2) shall be appointed to serve a (2) year term; and
 3. Two (2) shall be appointed to serve a (1) year term.

Members appointed by the Governor may be reappointed by the Governor to serve successive terms. In making gubernatorial appointments, the Governor shall consider recommendations and information on business and entrepreneurial experience provided by a nominating committee of the board and shall attempt to promote geographic balance on the board. The Governor shall make appointments to fill gubernatorial vacancies as they occur. Each appointment after the initial appointment shall be for a three (3) year term unless the appointment is to fill the unexpired portion of a term.

- (4) The Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet shall contract with an entrepreneurship education organization to administer and operate the statewide Governor's School for Entrepreneurs Program created in this section. The Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet shall approve the contract application criteria, the process for submission of a contract application, and the structure and type of evaluation criteria used in the contract application review process.
- (5) The annual appropriation for the statewide Governor's School for Entrepreneurs Program from the general fund shall be transmitted to an entrepreneurship education organization on July 1 of each year to facilitate the operation of the summer program. Funds shall be used only for the purposes of the statewide Governor's School for Entrepreneurs Program and, notwithstanding KRS 45.229, shall not lapse at the end of the fiscal year.
- (6) (a) The entrepreneurship education organization shall follow standard accounting practices and shall submit the following financial reports to the Office of the Secretary of the Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet, the Finance and Administration Cabinet, and the Legislative Research Commission:
1. Quarterly reports of expenditures of state funds for the Governor's School for Entrepreneurs Program, submitted on or before the thirtieth day after the end of each quarter in the organization's fiscal year;

2. Annual reports of receipts and expenditures for the Governor's School for Entrepreneurs Program, submitted on or before the sixtieth day after the end of the fiscal year of the organization; and
 3. The report of an annual financial compilation or review conducted by an independent accounting firm, submitted on or before September 1 of each year.
- (b) On or before March 1 of each year, the entrepreneurship education organization shall file a report detailing the operations of the Governor's School for Entrepreneurs Program for the preceding year with the Office of the Secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet, the Finance and Administration Cabinet, and the Legislative Research Commission. The report shall include information concerning the program, student and faculty demographics, and program outcomes according to such measures of success as the advisory board to the statewide Governor's School for Entrepreneurs Program, in collaboration with the entrepreneurship education organization, may develop.
- (c) Nothing in this section shall prevent the entrepreneurship education organization from soliciting program support, cooperation, and funds from private businesses, foundations, industries, and government agencies with an interest in technological innovations, economic development, and entrepreneurial education. Funds may be solicited, accepted, received, and expended from public and private sources for the purpose of implementing this section.
- (7) The entrepreneurship education organization may perform other programs and initiatives pertaining to its mission so long as all funds appropriated for the statewide Governor's School for Entrepreneurs Program are restricted solely for the design, development, and operation of the statewide Governor's School for Entrepreneurs Program.

➔Section 70. KRS 158.792 is amended to read as follows:

- (1) As used in this section and KRS 164.0207, unless the context requires otherwise:
- (a) "Comprehensive reading program" means a program that emphasizes the essential components of reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read.
 - (b) "Reading diagnostic assessment" means an assessment that identifies a struggling reader and measures the reader's skills against established performance levels in the essential components of reading. The purpose is to screen for areas that require intervention in order for the student to learn to read proficiently.
 - (c) "Reading intervention program" means short-term intensive instruction in the essential skills necessary to read proficiently that is provided to a student by a highly trained teacher. This instruction may be conducted one-on-one or in small groups; shall be research-based, reliable, and replicable; and shall be based on the ongoing assessment of individual student needs.
 - (d) "Reliable, replicable research" means objective, valid, scientific studies that:
 1. Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;
 2. Rely on measurements that meet established standards of reliability and validity;
 3. Test competing theories, where multiple theories exist;
 4. Are subjected to peer review before their results are published; and
 5. Discover effective strategies for improving reading skills.
- (2) The reading diagnostic and intervention fund is created to help teachers and library media specialists improve the reading skills of struggling readers in the primary program. The Department of Education, upon the recommendation of the Reading Diagnostic and Intervention Grant Steering Committee, shall provide renewable, two (2) year grants to schools to support teachers in the implementation of reliable, replicable research-based reading intervention programs that use a balance of diagnostic tools and instructional strategies that emphasize phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read to address the diverse learning needs of those students

reading at low levels. Any moneys in the fund at the close of the fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.

- (3) (a) The Kentucky Board of Education shall promulgate administrative regulations, based on recommendations from the secretary of the Education and ~~Labor~~~~[Workforce Development]~~ Cabinet, the Reading Diagnostic and Intervention Grant Steering Committee established in KRS 158.794, and the Collaborative Center for Literacy Development established in KRS 164.0207 to:
1. Identify eligible grant applicants, taking into consideration how the grant program described in this section will relate to other grant programs;
 2. Specify the criteria for acceptable diagnostic assessments and intervention programs;
 3. Specify the criteria for acceptable ongoing assessment of each child to determine his or her reading progress;
 4. Establish the minimum evaluation process for an annual review of each grant recipient's program and progress;
 5. Identify the annual data that must be provided from grant recipients;
 6. Define the application review and approval process;
 7. Establish matching requirements deemed necessary;
 8. Define the professional development and continuing education requirements for teachers, library media specialists, administrators, and staff of grant recipients;
 9. Establish the conditions for renewal of a two (2) year grant; and
 10. Specify other conditions necessary to implement the purposes of this section.
- (b) The board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:
1. A research-based comprehensive schoolwide reading program will be available;
 2. Intervention services will supplement, not replace, regular classroom instruction;
 3. Intervention services will be provided to struggling primary program readers within the school based upon ongoing assessment of their needs; and
 4. A system for informing parents of struggling readers of the available family literacy services within the district will be established.
- (4) In order to qualify for funding, the school council, or if none exists, the principal or the superintendent of schools, shall allocate matching funds required by grant recipients under subsection (3) of this section. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used as part of the school's match.
- (5) The Department of Education shall make available to schools:
- (a) Information concerning successful, research-based comprehensive reading programs, diagnostic tools for pre- and post-assessment, and intervention programs, from the Collaborative Center for Literacy Development created under KRS 164.0207;
 - (b) Strategies for successfully implementing early reading programs, including professional development support and the identification of funding sources; and
 - (c) A list of professional development providers offering teacher training related to reading that emphasizes the essential components for successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read.
- (6) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds. The report shall also include comparisons of the overall costs and effectiveness of intervention programs. The annual report for an odd-numbered year shall include an estimate of the cost to expand the reading diagnostic and intervention grant program.

➔Section 71. KRS 158.796 is amended to read as follows:

- (1) The Governor's Scholars Program is established to implement an enrichment program for academically gifted students to enhance the next generation of civic and economic leaders and create models of educational excellence. Governor's Scholars Program, Inc. is authorized to operate the Governor's Scholars Program. The Governor's Scholars Program shall be attached to the Office of the Secretary in the Education and ~~Labor~~~~Workforce Development~~ Cabinet for administrative purposes.
- (2) (a) The Governor or the Governor's designee from the executive cabinet, the commissioner of education, and the president of the Council on Postsecondary Education shall serve as ex officio voting members of the board of directors of Governor's Scholars Program, Inc. In addition, the Governor shall appoint five (5) members of the board as provided in paragraph (b) of this subsection. Other board members of Governor's Scholars Program, Inc. shall be selected in the manner set forth in the articles of incorporation and bylaws of the corporation.
- (b) After June 20, 2005, the Governor shall appoint board members as follows:
1. In 2005, the Governor shall appoint two (2) board members to serve three (3) year terms;
 2. In 2006, the Governor shall appoint two (2) members to serve three (3) year terms; and
 3. In 2007, the Governor shall appoint one (1) member to serve a three (3) year term.
- Members appointed by the Governor may be reappointed by the Governor to serve successive terms. In making gubernatorial appointments, the Governor shall consider recommendations and information provided by the nominating committee of the board and shall attempt to promote geographic balance on the board. One (1) of the gubernatorial appointees shall be designated by the board to serve on the committee that functions as the executive committee of Governor's Scholars Program, Inc. The Governor shall make appointments to fill gubernatorial vacancies as they occur. Each appointment after the initial appointment shall be for a three (3) year term unless the appointment is to fill the unexpired portion of a term.
- (c) The board of directors shall have the authority to hire, fire, and manage all program personnel, including the executive director.
- (3) The annual appropriation for the Governor's Scholars Program from the general fund shall be transmitted to Governor's Scholars Program, Inc. on July 1 of each year to facilitate the operation of the summer program. Funds shall be used only for the purposes of the Governor's Scholars Program and shall not lapse at the end of the fiscal year.
- (4) (a) Governor's Scholars Program, Inc. shall follow standard accounting practices and shall submit the following financial reports to the Office of the Governor, the Finance and Administration Cabinet, and the Legislative Research Commission:
1. Quarterly reports of expenditures of state funds, submitted on or before the thirtieth day after the end of each quarter in the corporation's fiscal year;
 2. Annual reports of receipts and expenditures for the Governor's Scholars Program, submitted on or before the sixtieth day after the end of the fiscal year of the corporation; and
 3. The report of an annual financial audit conducted by an independent auditor, submitted on or before September 1 of each year.
- (b) On or before March 1 of each year, Governor's Scholars Program, Inc. shall file with the Office of the Governor, the Finance and Administration Cabinet, and the Legislative Research Commission a report detailing the operations of the Governor's Scholars Program for the preceding year. The report shall include information concerning the summer program, student and faculty demographics, and program outcomes according to such measures of success as the board may adopt.

➔Section 72. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department ~~of~~~~for~~ Education and the Council on Postsecondary Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

➔Section 73. 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 ~~Labor/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 ~~Labor/Workforce Development~~ Cabinet;
- (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 74. KRS 158.844 is amended to read as follows:

- (1) The mathematics achievement fund is hereby created to provide developmentally appropriate diagnostic assessment and intervention services to students, primary through grade 12, to help them reach proficiency in mathematics on the state assessments under KRS 158.6453 and in compliance with the "No Child Left Behind Act of 2001," 20 U.S.C. secs. 6301 et seq., as required under KRS 158.840.
- (2) The grant funds may be used to support the implementation of diagnostic and intervention services in mathematics. The use of funds may include: pay for extended time for teachers, released time for teachers to serve as coaches and mentors or to carry out other responsibilities needed in the implementation of intervention services, payment of substitute teachers needed for the support of mathematics teachers, purchase of materials needed for modification of instruction, and other costs associated with diagnostic and intervention services or to cover other costs deemed appropriate by the Kentucky Board of Education.
- (3) The fund shall:
- (a) Provide funding for the Center for Mathematics created in KRS 164.525 and the costs of training selected teachers in the diagnostic assessment and intervention skills that are needed to assist struggling students in the primary program and other grade levels;
 - (b) Provide renewable, two (2) year local grants to school districts and for purposes described in subsection (2) of this section; and
 - (c) Provide operational funding for the Committee for Mathematics Achievement created in KRS 158.842.
- (4) Any funds appropriated to the mathematics achievement fund that are specifically designated by the General Assembly to support the Center for Mathematics shall be appropriated to the Council on Postsecondary Education and distributed to the university administering the center, as determined by the council under KRS 164.525.
- (5) Any moneys in the fund at the close of a fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.
- (6) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (7) (a) Any funds appropriated to the mathematics achievement fund and specifically designated by the General Assembly as funding for grants to local school districts or to support the Committee for Mathematics Achievement shall be administered by the Kentucky Department of Education.

- (b) The Kentucky Board of Education shall promulgate administrative regulations relating to the grants for local school districts based on recommendations from the Committee for Mathematics Achievement, the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet, the commissioner of education, and the Center for Mathematics established in KRS 164.525. The administrative regulations shall:
1. Identify eligibility criteria for grant applicants;
 2. Specify the criteria for acceptable diagnostic assessments and intervention programs and coaching and mentoring programs;
 3. Establish the minimum annual evaluation process for each grant recipient;
 4. Identify the annual data that must be provided from each grant recipient;
 5. Define the application and approval process;
 6. Establish matching fund requirements if deemed necessary by the board;
 7. Define the obligations for professional development and continuing education for teachers, administrators, and staff of each grant recipient;
 8. Establish the conditions for renewal of a two (2) year grant; and
 9. Specify other conditions necessary to implement the purposes of this section.
- (c) As part of the application process, the board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:
1. Mathematics instruction will be standards-based and utilize research-based practices;
 2. Intervention and support services will supplement, not replace, regular classroom instruction; and
 3. Intervention services will be provided to primary program students and other students who are at risk of mathematics failure within the school based upon ongoing assessments of their needs.
- (d) If matching funds are required, the school council or, if none exists, the principal or the superintendent of schools, shall allocate matching funds. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used to provide a portion or all of a school's required match.
- (e) The Department of Education shall make available to schools:
1. Information from the Center for Mathematics regarding diagnostic assessment and intervention programs and coaching and mentoring programs of proven-practice in meeting the needs of primary students and other students who are at risk of failure;
 2. Technical assistance to potential applicants and grant recipients;
 3. A list of professional development providers offering teacher training in diagnostic assessment and intervention strategies and coaching and mentoring; and
 4. Information from the Center for Mathematics on how to communicate to parents effective ways of interacting with their children to improve their mathematics concepts, skills, and understanding.
- (f) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds. By November 1, 2007, the Department of Education with input from the Committee for Mathematics Achievement and the Center for Mathematics shall conduct a statewide needs assessment of the resources needed in each school to help each child achieve proficiency in mathematics by the year 2014 and report to the Interim Joint Committee on Education an estimate of the cost and a specific timeline for meeting the goal established by the Commonwealth.

➔Section 75. KRS 160.1595 is amended to read as follows:

- (1) The state board, upon receipt of a notice of appeal or upon its own motion, shall review decisions of any authorizer concerning the approval or denial of a public charter school application, the nonrenewal or revocation of a public charter school's contract, the denial of a public charter school's request to consider a

charter amendment, or the unilateral imposition of conditions, in accordance with the provisions of this section.

- (2) A charter applicant or approved public charter school who wishes to appeal a decision of an authorizer concerning a charter application, a charter amendment, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, shall provide the state board and the authorizer with a notice of appeal within thirty (30) days after the authorizer's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, whichever is being appealed, specified by the authorizer. The notice shall include a brief statement of the reasons the public charter school applicant or public charter school contends the authorizer's denial of or nonrenewal or revocation of a charter, or imposition of conditions was in error.
- (3) If the notice of appeal, or the motion to review by the state board, relates to an authorizer's decision to deny, refuse to renew, or revoke a charter or to an authorizer's unilateral imposition of conditions that are unacceptable to the charter applicant or public charter school, the appeal and review process shall be as follows:
 - (a) Within forty-five (45) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the proposed public charter school has applied for a charter, shall review the decision of the authorizer and make its findings. If the state board finds that the authorizer's decision was contrary to the best interest of the students or community, the state board shall remand such decision to the authorizer with written instructions for reconsideration thereof. The instructions shall include specific recommendations concerning the matters requiring reconsideration;
 - (b) Within thirty (30) days following the remand of a decision to the authorizer and after reasonable public notice, the authorizer, at a public hearing, shall reconsider its decision and make a final decision;
 - (c) If the authorizer's final decision is still to deny, refuse to renew, or revoke a charter or to unilaterally impose conditions unacceptable to the charter applicant, a second notice of appeal may be filed with the State Board of Education within thirty (30) days following such final decision;
 - (d) Within thirty (30) days following receipt of the second notice of appeal or the making of a motion for a second review by the State Board of Education and after reasonable public notice, the state board, at a public hearing shall determine if the final decision of the authorizer was contrary to the best interest of the students or community. If such a finding is made, the state board shall remand such final decision to the authorizer with instructions to approve the charter application or amendment, or to renew or reinstate the charter, or to approve or disapprove conditions imposed. The decision of the state board shall be a final action subject to judicial review in the Circuit Court encompassing the school district in which the public charter school is located; and
 - (e) Charters granted to applicants by authorizers after a successful appeal to the state board, as outlined in paragraph (d) of this subsection, shall be provided joint oversight by the authorizer and the state board for, at a minimum, the first five (5) years of the school's operation, and until the authorizer, state board, and public charter school agree that charter oversight may be provided solely by the authorizer. The state board shall be a formal participant in all authorizing decision making concerning the public charter school during that period, and shall be included in all communication between the public charter school and the authorizer.
- (4)
 - (a) Within ten (10) days of taking action to approve or deny a charter application that has been remanded back to the authorizer for reconsideration, the authorizer shall notify the state board of the action taken.
 - (b) The authorizer shall provide a report to the charter applicant, the state board, and the Education and ~~Labor~~~~Workforce Development~~ Cabinet simultaneously and shall include a copy of the resolution adopted by the authorizer's board of directors identifying any action taken, the reason for the decision, and an assurance as to compliance with all of the procedural requirements and application elements found in this section and KRS 160.1591 and 160.1593.

➔Section 76. KRS 160.1596 is amended to read as follows:

- (1)
 - (a) For purposes of this section, a member of the board of directors of a public charter school shall be considered an officer under KRS 61.040 and shall, within sixty (60) days of final approval of an application, take an oath of office as required under KRS 62.010.

- (b) Within seventy-five (75) days of the final approval of an application, the board of directors and the authorizer shall enter into a binding charter contract that establishes the academic and operational performance expectations and measures by which the public charter school will be evaluated.
- (c) The executed charter contract shall become the final authorization for the public charter school. The charter contract shall include:
 - 1. The term of the contract;
 - 2. The agreements relating to each item required under KRS 160.1592(3) and 160.1593(3), as modified or supplemented during the approval process;
 - 3. The rights and duties of each party;
 - 4. The administrative relationship between the authorizer and the public charter school;
 - 5. The allocation of state, local, and federal funds, and the schedule to disburse funds to the public charter school by the authorizer;
 - 6. The process the authorizer will use to provide ongoing oversight, including a process to conduct annual site visits;
 - 7. The specific commitments of the public charter school authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;
 - 8. The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found in the annual review;
 - 9. The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the board of directors of the public charter school;
 - 10. The process agreed to by the authorizer and the board of directors of the public charter school that identifies how disputes between the authorizer and the board will be handled; and
 - 11. Any other terms and conditions agreed to by the authorizer and the board of directors, including pre-opening conditions. Reasonable conditions shall not include enrollment caps or operational requirements that place undue constraints on a public charter school or are contradictory to the provisions of KRS 160.1590 to 160.1599 and 161.141. Such conditions, even when incorporated in a charter contract, shall be considered unilaterally imposed conditions.
- (d) 1. The performance provisions within a charter contract shall be based on a performance framework that sets forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate each public charter school. The performance framework shall include at a minimum indicators, measures, and metrics for:
 - a. Student academic proficiency;
 - b. Student academic growth;
 - c. Achievement gaps in both student proficiency and student growth for student subgroups, including race, sex, socioeconomic status, and areas of exceptionality;
 - d. Student attendance;
 - e. Student suspensions;
 - f. Student withdrawals;
 - g. Student exits;
 - h. Recurrent enrollment from year to year;
 - i. College or career readiness at the end of grade twelve (12);
 - j. Financial performance and sustainability; and
 - k. Board of directors' performance and stewardship, including compliance with all applicable statutes, administrative regulations, and terms of the charter contract.

2. The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance. The proposed indicators shall be consistent with the purposes of KRS 160.1590 to 160.1599 and 161.141 and shall be negotiated with the authorizer.
 3. The performance framework shall require the disaggregation of student performance data by subgroups, including race, sex, socioeconomic status, and areas of exceptionality.
 4. The authorizer shall be responsible for collecting, analyzing, and reporting to the state board all state-required assessment and achievement data for each public charter school it oversees.
- (e) Annual student achievement performance targets shall be set, in accordance with the state accountability system, by each public charter school in conjunction with its authorizer, and those measures shall be designed to help each school meet applicable federal, state, and authorizer goals.
 - (f) The charter contract shall be signed by the chair of the governing board of the authorizer and the chair of the board of directors of the public charter school. An approved charter application shall not serve as a charter contract for the public charter school.
 - (g) No public charter school may commence operations without a charter contract executed according to this section and approved in an open meeting of the governing board of the authorizer.
- (2) Within five (5) days after entering into a charter contract, a copy of the executed contract shall be submitted by the authorizer to the commissioner of education.
 - (3) The state board shall promulgate administrative regulations to establish the process to be used to evaluate the performance of a charter school authorizer, based upon the requirements of KRS 160.1590 to 160.1599 and 161.141, and the actions to be taken in response to failures in performance.
 - (4) The commissioner of education shall apply for financial assistance through the federal government for the planning, program design, and initial implementation of public charter schools in the state within sixty (60) days after June 29, 2017, or at the first available grant application period. Federal grants include but are not limited to the Charter Schools Program administered by the United States Department of Education.
 - (5) By August 31, 2019, and annually thereafter, each public charter school authorizer shall submit to the commissioner of education, the secretary of the Education and ~~Labor-Workforce Development~~ Cabinet, and the Interim Joint Committee on Education a report to include:
 - (a) The names of each public charter school operating under contract with the authorizer during the previous academic year that:
 1. Closed during or after the academic year; or
 2. Had the contract nonrenewed or revoked;
 - (b) The names of each public charter school operating under contract with the authorizer during the previous academic year that have not yet begun to operate;
 - (c) The number of applications received, the number reviewed, and the number approved;
 - (d) A summary of the academic and financial performance of each public charter school operated under contract with the authorizer during the previous academic year; and
 - (e) The authorizing duties and functions performed by the authorizer during the previous academic year.

➔Section 77. 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 ~~Labor~~~~Workforce Development~~ Cabinet.
- (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 78. KRS 161.028 is amended to read as follows:

- (1) The Education Professional Standards Board is recognized to be a public body corporate and politic and an agency and instrumentality of the Commonwealth, in the performance of essential governmental functions. The Education Professional Standards Board has the authority and responsibility to:
- (a) Establish standards and requirements for obtaining and maintaining a teaching certificate;
 - (b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel. College or university programs may be approved by the board for a college or university with regional institutional level accreditation or national institutional level accreditation that is recognized by the United States Department of Education and is eligible to receive federal funding under 20 U.S.C. secs. 1061 to 1063. Program standards shall reflect national standards and shall address, at a minimum, the following:
 1. The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;
 2. Research-based classroom practices, including effective classroom management techniques;
 3. Emphasis on subject matter competency of teacher education students;
 4. Methodologies to meet diverse educational needs of all students;
 5. The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;
 6. The amount of college-wide or university-wide involvement and support during the preparation as well as the induction of new teachers;
 7. The diversity of faculty;
 8. The effectiveness of partnerships with local school districts; and
 9. The performance of graduates on various measures as determined by the board;
 - (c) Conduct an annual review of diversity in teacher preparation programs;
 - (d) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;
 - (e) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;
 - (f) Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;
 - (g) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;
 - (h) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

- (i) Recommend to the Kentucky Board of Education the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system and periodically report data to the Interim Joint Committee on Education;
 - (j) Submit reports to the Governor and the Legislative Research Commission and inform the public on the status of teaching in Kentucky;
 - (k) Devise a credentialing system that provides alternative routes to gaining certification and greater flexibility in staffing local schools while maintaining standards for teacher competence;
 - (l) Develop a professional code of ethics;
 - (m) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with disciplinary action against a certificate holder under KRS 161.120;
 - (n) Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing, by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver;
 - (o) Promote the development of one (1) or more innovative, nontraditional or alternative administrator or teacher preparation programs through public or private colleges or universities, private contractors, the Department of Education, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program;
 - (p) Grant approval, if appropriate, of a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as an assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board;
 - (q) Employ consultants as needed;
 - (r) Enter into contracts. Disbursements to professional educators who receive less than one thousand dollars (\$1,000) in compensation per fiscal year from the board for serving on an assessment validation panel or as a test scorer or proctor shall not be subject to KRS 45A.690 to 45A.725;
 - (s) Sponsor studies, conduct research, conduct conferences, and publish information as appropriate; and
 - (t) Issue orders as necessary in any administrative action before the board.
- (2) (a) The board shall be composed of seventeen (17) members. The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:
- 1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
 - 2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
 - 3. One (1) member representative of local boards of education; and

4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.
 - (b) The members appointed by the Governor shall be confirmed by the Senate under KRS 11.160. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the Senate at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.
 - (c) Each appointed member shall serve a three (3) year term. A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his or her successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he or she was appointed shall no longer be eligible to serve in that position.
 - (d) Members of the board shall serve without compensation but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.
 - (e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from the member's place of employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.
 - (f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. Regular meetings shall be held at least semiannually on call of the chairman.
 - (g) The commissioner of education shall serve as executive secretary to the board and may designate staff to facilitate his or her duties.
 - (h) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

➔Section 79. 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 or her 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) 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. 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;
- (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 becomes a member on or after January 1, 2022, and subsequently draws a monthly lifetime retirement allowance, 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 161.540 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;
- (q) The Governor's School for Entrepreneurs Program;
- (r) Employees of the Office of Adult Education within the Department of Workforce ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~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; and

- (s) Employees of the Education Professional Standards Board who were members of the Kentucky Teachers' Retirement System at the time the employees were transferred to the Kentucky Department of Education pursuant to Executive Order 2020-590;
- (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 or she, 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 individuals who become members prior to January 1, 2022, 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 for individuals who become members prior to January 1, 2022, or within the five (5) years immediately prior to the date of the member's retirement for individuals who become members on or after January 1, 2022, the amount of salary to be included for each of those three (3) years or five (5) years, as applicable, 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 or five (5) years, as applicable, 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. The board of trustees may promulgate an administrative regulation in accordance with KRS Chapter 13A to establish a methodology for measuring the limitation so that the combined increases in salary for each of the last three (3) full years of salary prior to retirement shall not exceed the total permissible percentage increase received by other members of the employer for the same three (3) year period.

For individuals who became members of the retirement system prior to July 1, 2021, 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. The board of trustees may promulgate an administrative regulation in accordance with KRS Chapter 13A to provide definitions for 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, for individuals subject to KRS 161.155(10) who became nonuniversity members of the system prior to January 1, 2022, be included as part of a retiring member's annual compensation for the member's last year of active service;

- (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:
 - (a) For an individual who becomes a member prior to July 1, 2008, interest at three percent (3%) per annum;
 - (b) For an individual who becomes a member on or after July 1, 2008, but prior to January 1, 2022, 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
 - (c) For an individual who becomes a member on or after January 1, 2022, the rolling five (5) year yield on a thirty (30) year United States Treasury bond as of the end of May prior to the most recently completed fiscal year, except that:
 - 1. Once the member has at least sixty (60) months of service in the system it shall mean interest at two and one-half percent (2.5%) per annum for purposes of crediting interest to employee contributions in the foundational benefit component or any other contributions made by the employee to the foundational benefit component that are refundable to the employee upon termination of employment; and
 - 2. The board shall have the authority to adjust the regular interest rate for individuals who become members on or after January 1, 2022, in accordance with KRS 161.633 and 161.634;
- (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, 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 contribution" means the employer contribution deposited to a member's account through the supplemental benefit component and regular interest credited on such amounts as provided by KRS 161.635 for nonuniversity members and KRS 161.636 for university members;
- (30) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2022, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2022, the combined sum of the member's accumulated contributions and the member's accumulated employer contributions;
- (31) "Foundational benefit component" means the benefits provided by KRS 161.220 to 161.716 to individuals who become members on or after January 1, 2022, except for the supplemental benefit component and retiree health benefits set forth in KRS 161.675; and
- (32) "Supplemental benefit component" means:
- (a) The benefit established pursuant to KRS 161.635 for individuals who become nonuniversity members on or after January 1, 2022; or
 - (b) The benefit established pursuant to KRS 161.636 for individuals who become university members on or after January 1, 2022.

➔Section 80. KRS 163.470 is amended to read as follows:

- (1) The executive director shall be appointed by the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet pursuant to KRS 12.050.
- (2) 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 ~~Labor~~~~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) The office shall establish and implement policies and procedures for the carrying out of the program of services for the blind.
- (4) At the close of each biennium, the office shall prepare a financial report and present it to the secretary of the Education and ~~Labor~~~~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) The office shall coordinate its functions with other appropriate public and private agencies.
- (6) The office shall perform all other duties as required of it by law.
- (7) 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) 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) 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 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 the 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) The office, 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) 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 81. KRS 163.506 is amended to read as follows:

- (1) The Commission on the Deaf and Hard of Hearing shall consist of:
- (a) Seven (7) members appointed by the Governor as follows:
 1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;
 2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;
 3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;
 4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and
 5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;
 - (b) One (1) representative of the Cabinet for Health and Family Services appointed by the secretary;
 - (c) The secretary of the Education and ~~Labor/Workforce Development~~ Cabinet or his designee;
 - (d) The president of the Kentucky Association for the Deaf or his designee;
 - (e) The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and
 - (f) Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)(e) of this section, appointed as follows:
 1. One (1) parent of a hard of hearing or deaf child;
 2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and
 3. One (1) member at large.
- (2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)(f) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.
- (3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

➔Section 82. KRS 164.0284 is amended to read as follows:

- (1) In order to help prospective students make more informed decisions about their futures and ensure that they are adequately aware of the cost of college and other career paths, the Council on Postsecondary Education shall compile on an annual basis the following information:
- (a) The most in-demand jobs in the state along with the starting salary, the median salary, and the typical education level for those jobs;
 - (b) For the University of Kentucky, the University of Louisville, each comprehensive university, and each college within the Kentucky Community and Technical College System:
 1. The average cost;
 2. The average three (3) year student loan default rate;
 3. The average student loan debt for students who have attended the institution;
 4. The percentage of students taking out student loans;
 5. The average graduation rate and average time to completion;

6. The number of students completing high school credential programs and career and technical education programs, and, as available, the number of students completing apprenticeship programs; and
 7. The median and range of starting salaries for graduates; and
- (c) For each college within the Kentucky Community and Technical College System, the percentage of students employed by program area and, as data becomes available, the rate of students gainfully employed in the recognized occupation for which the student was trained or in a related comparable recognized occupation.
- (2) The Council on Postsecondary Education shall maintain and ensure access to the information by prospective students in the state. The council shall work with the Kentucky Center for Statistics, the Kentucky Department of Education, the Education and ~~Labor~~~~[Workforce Development]~~ Cabinet, and the Kentucky Higher Education Assistance Authority and other stakeholders the council determines necessary to develop a delivery method to carry out the objectives of this section.
- (3) The council may promulgate administrative regulations necessary to carry out this section and may require and compile information for specific programs within the postsecondary institutions identified in subsection (1)(b) of this section.

➔Section 83. 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 enacted general fund appropriation amount minus debt service on bonds and appropriations for mandated programs;
 - (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) "Mandated program" means a research or public service activity that is not integral to the instructional mission of the institution and is identified by the General Assembly in the biennial budget;
 - (k) "Performance fund" means the postsecondary education performance fund established in subsection (13) of this section.
 - (l) "Research universities" means the University of Kentucky and the University of Louisville;
 - (m) "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
 - (n) "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) (a) 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.
- (b) The General Assembly further recognizes that priority for state general fund appropriations for postsecondary institutions should be given to each institution's funding floor over appropriations to the performance fund. For purposes of this section, "funding floor" means an institution's fiscal year 2020-2021 general fund appropriation included in 2020 Ky. Acts ch. 92, plus any fiscal year 2020-2021 distribution from the performance fund, and minus fiscal year 2020-2021 debt service on bonds and appropriations for mandated programs.
- (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 ~~Development~~~~Investment~~ in the Education and ~~Labor~~~~Workforce Development~~ Cabinet;
 - 5. Production of industry credentials designated as targeted industries by the Education and ~~Labor~~~~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 hold-harmless provision for fiscal year 2021-2022, and every fiscal year thereafter, preventing a reduction in an institution's funding amount based solely on the formula calculation;
 3. 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;
 4. 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; and
 5. A stop-loss provision for fiscal year 2021-2022, and every fiscal year thereafter, limiting the reduction in funding to any institution to zero percent (0%) of that institution's formula base amount.
- (b) 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 May 1 each year, 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 performance fund.
- (b) The Office of the State Budget Director shall distribute the appropriations in the 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) 1. The certified amounts distributed from the performance fund to the institutions are nonrecurring funds that shall not be included in the institutions' base budget amounts submitted in their biennial budget requests.
2. The certified amounts distributed from the performance fund in the previous fiscal year shall be included in the performance fund's base budget amount submitted by the council in the biennial budget request.
- (d) 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 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. The council may call the working group to convene prior to the start of the required fiscal year to allow sufficient time for the group to complete its work.
 - (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 by December 1 of each fiscal year the working group convenes.
- (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 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 84. 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 Blind Services within the Office of Vocational Rehabilitation in the Education and ~~Labor~~~~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, 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 85. KRS 164.786 is amended to read as follows:

- (1) For purposes of this section:
 - (a) "Academic term" means the fall or spring academic semester;
 - (b) "Academic year" means July 1 through June 30 of each year;
 - (c) "Approved dual credit course" means a dual credit course developed in accordance with KRS 164.098 and shall include general education courses and career and technical education courses within a career pathway approved by the Kentucky Department of Education that leads to an industry-recognized credential;
 - (d) "Authority" means the Kentucky Higher Education Assistance Authority;
 - (e) "Dual credit" has the same meaning as in KRS 158.007;
 - (f) "Dual credit tuition rate ceiling" means one-third (1/3) of the per credit hour tuition amount charged by the Kentucky Community and Technical College System for in-state students;
 - (g) "Eligible high school student" means a student who:
 - 1. Is a Kentucky resident;
 - 2. Is enrolled in a Kentucky high school as a senior or junior;
 - 3. Has completed a thirty (30) minute college success counseling session; and
 - 4. Is enrolled, or accepted for enrollment, in an approved dual credit course at a participating institution;
 - (h) "Participating institution" means a postsecondary institution that:
 - 1. Has an agreement with the authority for the administration of the Dual Credit Scholarship Program;
 - 2. Charges no more than the dual credit tuition rate ceiling per credit hour, including any additional fees, for any dual credit course it offers to any Kentucky public or nonpublic high school student;
 - 3. Does not charge any tuition or fees to an eligible high school student for an approved dual credit course beyond what is paid by the Dual Credit Scholarship Program when the course is not successfully completed; and
 - 4. Is a:
 - a. Kentucky Community and Technical College System institution;
 - b. Four (4) year Kentucky public college or university; or
 - c. Four (4) year private college or university that is accredited by the Southern Association of Colleges and Schools and whose main campus is located in Kentucky; and
 - (i) "Successfully completed" means a student receiving both secondary and postsecondary credit upon completion of an approved dual credit course.
- (2) To promote dual credit coursework opportunities at no cost to eligible Kentucky high school students, the General Assembly hereby establishes the Dual Credit Scholarship Program.

- (3) In consultation with the Education and ~~Labor/Workforce Development~~ Cabinet, the authority shall administer the Dual Credit Scholarship Program and shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the program.
- (4)
 - (a) Each high school shall apply to the authority for dual credit scholarship funds for each eligible high school student.
 - (b) The authority may award a dual credit scholarship to an eligible high school student for an academic term to the extent funds are available for that purpose, except that a scholarship shall be awarded to an eligible high school senior prior to awarding an eligible high school junior.
 - (c) An eligible high school student may receive a dual credit scholarship for a maximum of two (2) successfully completed dual credit courses.
 - (d) The dual credit scholarship award amount shall be equal to the amount charged by a participating institution, not to exceed the dual credit tuition rate ceiling for each dual credit hour, except the scholarship amount shall be reduced by fifty percent (50%) if the dual credit course is not successfully completed by the student.
 - (e) Dual credit scholarship funds shall not be used for remedial or developmental coursework.
- (5) Each participating institution shall submit information each academic term to the authority required for the administration of the scholarship as determined by the authority.
- (6) Beginning August 1, 2017, and each year thereafter, the authority shall provide a report to the secretary of the Education and ~~Labor/Workforce Development~~ Cabinet, the president of the Council on Postsecondary Education, and the commissioner of the Kentucky Department of Education to include:
 - (a) The number of students, by local school district and in total, served by the Dual Credit Scholarship Program; and
 - (b) The number of dual credits earned by students by high school and in total.
- (7) By May 31, 2019, and each year thereafter, the Kentucky Center for Education and Workforce Statistics, in collaboration with the authority, shall publish data on the Dual Credit Scholarship Program's academic and workforce outcomes. The center shall annually provide a report on the data to the Interim Joint Committee on Education.
- (8)
 - (a) The Dual Credit Scholarship Program trust fund is hereby created as a trust fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing scholarships described in this section.
 - (b) The trust fund shall consist of state general fund appropriations, gifts and grants from public and private sources, and federal funds. All moneys included in the fund shall be appropriated for the purposes set forth in this section.
 - (c) Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund.
 - (d) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.

➔Section 86. KRS 164.787 is amended 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 ~~Labor~~[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 ~~Labor~~[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 ~~Labor~~~~Workforce Development~~ Cabinet that includes, by academic term, academic year, institution, and workforce sector, the number of:
- (a) Students served by the scholarship and the total amount disbursed; and
 - (b) 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 unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund.
- (d) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.

➔Section 87. 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 **Innovation**~~[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 Education and **Labor**~~[Workforce Development]~~ Cabinet;
 - (f) "Related instruction" has the same meaning as in KRS 343.010; and
 - (g) "Sponsor" has the same meaning as in KRS 343.010.
- (2) Notwithstanding KRS 164.7881, an eligible student who earned a KEES award 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 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, 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 Education and **Labor**~~[Workforce Development]~~ Cabinet and the Kentucky Economic Development Cabinet.

➔Section 88. 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 **Labor**~~[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 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 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 ~~Labor~~~~[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) Terms of appointed members 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 89. KRS 171.347 is amended to read as follows:

There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty (20) members, as follows:

- (1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;
- (2) Two (2) members of the Senate, appointed by the President of the Senate;
- (3) The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet, or his or her designee;
- (4) One (1) member from the Tourism, Arts and Heritage Cabinet, appointed by the secretary of that cabinet;
- (5) One (1) member from the Kentucky Historical Society, appointed by the executive director of that agency;
- (6) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;
- (7) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency;
- (8) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;
- (9) One (1) member from the Abraham Lincoln Bicentennial Commission established by the United States Congress, appointed by the concurrence of the chairs of that agency;
- (10) The Larue County judge/executive, or his or her designee;
- (11) One (1) member from the Abraham Lincoln Birthplace, appointed by the superintendent of that national historic site;
- (12) One (1) member from the Lincoln Museum in Hodgenville, appointed by the president of that agency;
- (13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the head of that agency;
- (14) One (1) member from the Farmington Historic Home museum in Louisville, appointed by the head of that agency; and
- (15) Four (4) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln, appointed by the Governor.

The chair of the commission shall be elected from among the membership by the commission members.

➔Section 90. KRS 171.420 is amended to read as follows:

- (1) The State Libraries, Archives, and Records Commission is hereby created and shall be a seventeen (17) member body constituted as follows:
 - (a) The state librarian or his or her designee, who shall be the chairperson of the commission;
 - (b) The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or his or her designee, who shall serve as vice chairperson;
 - (c) The Auditor of Public Accounts or his or her designee;
 - (d) The state law librarian or his or her designee;
 - (e) The director of the Legislative Research Commission or his or her designee;
 - (f) The Attorney General or his or her designee;
 - (g) The executive director of the Kentucky Military Heritage Commission or a designee of the commission;
 - (h) The executive director of the Commonwealth Office of Technology or his or her designee;
 - (i) The president of the Kentucky Association of School Librarians or his or her designee;
 - (j) The executive director of the Kentucky Historical Society or his or her designee;

- (k) The executive director of the Kentucky Library Association or his or her designee;
 - (l) The president of the Council on Postsecondary Education or his or her designee;
 - (m) Four (4) citizens at large appointed by the Governor, including one (1) member representing library users with disabilities, one (1) member representing disadvantaged persons, and two (2) members representing library users; and
 - (n) One (1) member, who shall not be an elected official, appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators.
- (2) Vacancies for appointed members shall be filled by the Governor in the same manner as initial appointments are made. All appointed members shall serve for a term of three (3) years, except when making the appointments under subsection (3) of this section, two (2) shall be for a term of three (3) years, two (2) for two (2) years, and one (1) for one (1) year.
 - (3) On July 14, 2018, all terms of gubernatorial appointees made prior to July 14, 2018, shall expire, and the Governor shall appoint five (5) members to the commission in accordance with paragraphs (m) and (n) of subsection (1) of this section.
 - (4) The commission shall be the state advisory council on libraries and shall advise the Department for Libraries and Archives on matters relating to federal and state library development issues, archives and records management, federal and state funding, public library standards, and other federal and state library service issues. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

➔Section 91. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have but not be limited to the following duties and responsibilities:

- (1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;
- (2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;
- (3) Advise the Transportation Cabinet on the scenic byways and highways program;
- (4) Review and make recommendations on requests for highway signage from tourism-related entities;
- (5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;
- (6) Monitor developments across the United States relating to billboards and official signs;
- (7) Report to the secretary of the Transportation Cabinet and to the secretary of the Tourism, Arts and Heritage Cabinet on issues of mutual interest to the cabinets;
- (8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Tourism, Arts and Heritage Cabinet; and
- (9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Tourism, Arts and Heritage Cabinet, the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet, and the secretary of the Executive Cabinet.

➔Section 92. 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 of Vocational Rehabilitation in the Education and ~~Labor~~~~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 93. 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) of this section shall not be considered open records under KRS 61.870 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) 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. Produced pursuant to a properly executed subpoena or court order; or
 2. Disclosed as provided in this section.
- (c) Accident reports shall be made available to:
1. The parties to the accident;
 2. The parents or guardians of a minor who is party to the accident;
 3. Insurers or their written designee for insurance business purposes of any party who is the subject of the report;
 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 *Education and* 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 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 reports under subsection (5) 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) and (8) 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 if it:
 - i. Is published at least fifty (50) of fifty-two (52) weeks during a calendar year;
 - ii. 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. 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 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) A request under this subsection 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 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) For reporting and statistical purposes, motor scooters and autocycles as defined in KRS 186.010 shall be listed as a distinct category and shall not be considered to be a motor vehicle or a motorcycle for reports issued under this section.

➔Section 94. KRS 194A.150 is amended to read as follows:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Health and

Family Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice and Public Safety Cabinet, the secretary of the Public Protection Cabinet, the secretary of the Energy and Environment Cabinet, the secretary of the *Education and* Labor Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

➔Section 95. KRS 194A.735 is amended to read as follows:

- (1) Subject to sufficient funding, the Cabinet for Health and Family Services and the Justice and Public Safety Cabinet, in consultation with any other state agency as appropriate, shall develop and implement the Homelessness Prevention Project, which offers institutional discharge planning on a voluntary basis to:
 - (a) Persons with serious mental illness, persons between the ages of eighteen (18) and twenty-five (25) who may be at risk of developing serious mental illness who are being released from a mental health facility operated or contracted by the cabinet, or persons with a history of multiple utilizations of health care, mental health care, or judicial systems;
 - (b) Persons who are being released after serving out a sentence from any state-operated prison or persons who are being paroled from any state-operated prison; or
 - (c) Persons who will be aging out of foster care or who have aged out of foster care.
- (2) The primary goal of the project shall be to prepare a limited number of persons in a foster home under supervision by the Cabinet for Health and Family Services, state-operated prisons under supervision by the Justice and Public Safety Cabinet, and mental health facilities operated or contracted by the Cabinet for Health and Family Services for return or reentry into the community, and to offer information about any necessary linkage of the person to needed community services and supports.
 - (a) The project shall be jointly supported by each of the cabinets and managed under the direction of the Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, Division of Behavioral Health.
 - (b) Subject to sufficient funding as provided by an executive branch budget bill, the Division of Behavioral Health shall select the Homelessness Prevention Project sites. These sites shall be in addition to and integrated with the site located in and serving Jefferson County and the site located in a community mental health center serving Clinton, Cumberland, McCreary, and Wayne Counties.
 - (c) Within thirty (30) days of July 15, 2016, the cabinets shall supply the project director at each site with the collection of information on available employment, social, housing, educational, medical, mental health, and other community services in the county. The information shall include but not be limited to the service area of each public and private provider of services, the capacity of each provider to render services to persons served by the project, the fees of each provider, contact names and telephone numbers for each provider, and an emergency contact for each provider.
 - (d) Within thirty (30) days of July 15, 2016, the cabinets and directors shall begin a program of education for each of the cabinet and foster home and mental health and appropriate state-operated prison facility staff who will participate in the development of a discharge plan for volunteer participants under this section.
- (3) The project shall operate on a voluntary basis. Persons eligible for discharge or completing their sentence or who are being paroled from any state-operated prison shall be offered the opportunity to participate in the project. This offer shall be made at least six (6) months prior to discharge. There shall be a cap on the number of persons served in each Homelessness Prevention Project office, to be determined by available funding and staffing requirements.
 - (a) The staff member designated as the homelessness prevention coordinator for each foster home or mental health facility shall maintain a file for each volunteer participant in the foster home or mental health facility, relating to the participant's employment, social, housing, educational, medical, and mental health needs. This file shall be updated from time to time as appropriate and pursuant to an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A that establishes standards for the discharge summary. The staff member designated as the homelessness prevention coordinator for the appropriate state-operated prison participating in the project shall

maintain a file containing appropriate forms completed and updated by each person voluntarily participating in the project, relating to the information provided under subsection (6) of this section. All applicable privacy and confidentiality laws shall be followed in assembling and maintaining this file.

- (b) Six (6) months prior to the expected date of discharge, the discharge coordinator for each foster home and mental health and state-operated prison facility shall contact the homelessness prevention director for the appropriate site where the volunteer participant chooses to locate following discharge about the pending release of the volunteer participant who is eligible for discharge from a foster home or mental health facility, who will have served out his or her sentence in a state-operated prison facility, or who is being paroled from any state-operated prison that is participating in the project. The director shall visit the home or facility, as appropriate, to assist with the preparation of the final comprehensive discharge plan.
- (c) The homelessness prevention director from the site where the participant chooses to locate and the discharge coordinator for each participating foster home and mental health and state-operated prison facility shall work together to develop a final comprehensive discharge plan that addresses the employment, health care, educational, housing, and other needs of the person to be released, subject to the consent of the person and the funding and staffing capabilities of the director. Information provided by the coordinator may include and be limited to, subject to the staffing and funding capabilities of the coordinator, information provided by the person to be released on a form or forms made available by the foster home or mental health or state-operated prison facility. The discharge plan shall contain but not be limited to the following:
 1. Estimated discharge date from the foster home, state-operated prison facility, or mental health facility, or identification by a social service provider of a person who meets the criteria listed in subsection (1) of this section;
 2. Educational background of the person to be released, including any classes completed or skills obtained by the person while in the foster home, state-operated prison facility, or mental health facility;
 3. The person's medical and mental health needs;
 4. Other relevant social or family background information;
 5. A listing of previous attempts to arrange for post-release residence, employment, medical and mental health services, housing, education, and other community-based services for the person; and
 6. Other available funding and public programs that may reimburse any services obtained from a provider listed in the discharge plan. Every effort shall be made in the discharge plan to refer the person to a provider that has agreed to an arranged public or private funding arrangement.

No discharge plan shall be completed unless the written consent, consistent with state and federal privacy laws, to compile the information and prepare the plan has been given by the person eligible for release who has volunteered to participate in the project.

- (4) The homelessness prevention director from the site where the participant chooses to locate shall assist with the completion of a final comprehensive discharge plan that may include but need not be limited to the following:
 - (a) Availability of appropriate housing, including but not limited to a twenty-four (24) month transitional program, supportive housing, or halfway house. Planning discharge to an emergency shelter is not appropriate to meet the housing needs of the person being discharged from foster care, a state-operated prison facility, or a mental health facility;
 - (b) Access to appropriate treatment services for participants who require follow-up treatment;
 - (c) Availability of appropriate employment opportunities, including assessment of vocational skills and job training; and
 - (d) Identification of appropriate opportunities to further education.
- (5) Discharge planning shall be individualized, comprehensive, and coordinated with community-based services.
 - (a) Each discharge plan shall create a continuous, coordinated, and seamless system that is designed to meet the needs of the person.

- (b) Staff of the foster home or facility and staff of community-based services providers shall be involved in the planning.
 - (c) Each facility shall utilize, wherever possible, community-based services within the facility to establish familiarity of the person residing in the facility with the community services.
- (6) The Department of Corrections shall, through an administrative regulation promulgated in accordance with KRS Chapter 13A, develop a discharge plan that addresses the education; employment, technical, and vocational skills; and housing, medical, and mental health needs of a person who is to be released after serving out his or her sentence in a state-operated prison facility participating in the project.
- (7) Appropriate data about discharge placements and follow-up measures shall be collected and analyzed. The analysis shall be included in the interim and final reports of the project specified in subsection (8) of this section.
- (8) Each homelessness prevention director shall have regular meetings with appropriate state cabinet and agency staff to review the project and make recommendations for the benefit of the project. Each director shall be assisted by a local advisory council composed of local providers of services and consumer advocates who are familiar with homelessness prevention issues. Priority for membership on the advisory council shall be given to existing resources and regional mental health and substance abuse advisory councils at the discretion of the director.
- (9) Each cabinet shall collect data about the discharge plans, referrals, costs of services, and rate of recidivism related to the homelessness prevention project, and shall submit an annual report to the Governor and the Legislative Research Commission no later than October 1 that summarizes the data and contains recommendations for the improvement of the project. The annual report also shall be forwarded to the Kentucky Interagency Council on Homelessness.
- (10) (a) The Kentucky Interagency Council on Homelessness is hereby established to plan, develop, coordinate, and implement programs for the purpose of improving the well-being of homeless Kentuckians. The council shall be attached to the Homeless and Housing Coalition of Kentucky for administrative purposes.
- (b) The council shall include but not be limited to the following members:
- 1. The secretary of the Cabinet for Health and Family Services;
 - 2. The executive director of the Homeless and Housing Coalition of Kentucky;
 - 3. The chief executive officer of the Kentucky Housing Corporation;
 - 4. The commissioner of the Kentucky Department of Veterans' Affairs;
 - 5. The secretary of the Justice and Public Safety Cabinet;
 - 6. The secretary of the Education and ~~Labor~~~~[Workforce Development]~~ Cabinet;
 - 7. The secretary of the Transportation Cabinet;
 - 8. The executive director of the Administrative Office of the Courts;
 - 9. The state budget director;
 - 10. A representative from the Kentucky Housing Association, representing public housing authorities, appointed by the Governor for a two (2) year term; and
 - 11. An individual who has previously experienced homelessness and addiction, appointed by the Governor for a two (2) year term.
- (c) The chair of the council shall be appointed by the Governor for a two (2) year term and the vice chair shall be elected by the members of the council for a two (2) year term.
- (d) Members of the council who are not state employees shall be reimbursed for actual expenses incurred in the performance of their duties in accordance with KRS 45.101 and administrative regulations promulgated thereunder.
- (e) The council shall have the following functions and duties:

1. To serve as the single statewide homeless planning and policy development resource for the Commonwealth of Kentucky;
2. To review, update, and recommend changes to Kentucky's Ten-Year Plan to End Homelessness and monitor its implementation;
3. To serve as a state clearinghouse for information on services and housing options for the homeless population;
4. To conduct other activities as appropriate and necessary; and
5. To report to the Governor and General Assembly as requested.

➔Section 96. KRS 197.105 is amended to read as follows:

- (1) The department may administer a Prison Industry Enhancement Certification Program (PIECP) and may lease the labor of state prisoners within the boundaries of the state's Department of Corrections facilities for the production of nonagricultural goods for sale to both public and private buyers, if the department meets the conditions set out in this section. This section shall apply only to the leasing of labor in accordance with a PIECP and not to programs otherwise operated by Kentucky Correctional Industries.
- (2) The department shall not lease the labor of a prisoner who does not consent in writing to the leasing of that prisoner's labor.
- (3) The department shall retain full responsibility for the care, custody, and control of the prisoner and shall supply appropriate security and custody services without cost to the person leasing the labor.
- (4) The department shall ensure that the prisoner is paid wages at a rate not less than that paid for work of a similar nature in the locality in which the work takes place, as determined by the *Education and* Labor Cabinet, and never less than the federal minimum wage. The final decision on the appropriate wage, in keeping with federal and state labor and wage laws, shall be made by the *Education and* Labor Cabinet.
- (5) The department shall not allow a prisoner whose labor has been leased under this section to:
 - (a) Engage in work that would result in the displacement of employed workers in the specific Department of Corrections locale. As used in this paragraph, a displaced employed worker is:
 1. A civilian worker employed in the same task by the employer leasing or applying to lease prisoner labor, who would lose his or her job if the prisoner labor were leased; or
 2. A civilian worker who is employed full-time and, as a result of the prisoner labor lease, is forced to work part-time, regardless of wage increase.

A civilian worker is not considered displaced for the purposes of this paragraph if the civilian worker remains employed in a job acceptable to that worker and at equal or higher wages than that worker previously received. The employer shall provide whatever retraining is required of the civilian worker at no cost to the civilian worker;
 - (b) Labor in a skill, craft, or trade in which there is a surplus of labor for that skill, craft, or trade in that specific Department of Corrections locale;
 - (c) Perform any work that would impair existing contracts for goods or services;
 - (d) Perform leased work outside of Department of Corrections facilities; or
 - (e) Perform leased construction work inside or outside Department of Corrections facilities.
- (6) Before the commencement of any leased labor project at a Department of Corrections facility under this section, the department shall:
 - (a) Receive a written projection from the *Education and* Labor Cabinet that the leased labor project shall not result in acts prohibited by subsection (5)(a) to (c) of this section;
 - (b) Receive written documentation from the employer leasing or applying to lease prisoner labor agreeing to not displace any of its nonprisoner employees with leased prisoner labor;
 - (c) Have written documentation of consultation with local unions representing labor in the specific Department of Corrections facility's locale in any skill, craft, or trade in which a prisoner may labor at that facility. If a local union is not available, the department shall consult with a similar statewide union. The department shall present this information to the Kentucky State Corrections Commission;

- (d) Have written documentation of consultation with local private businesses that may be economically impacted by the leased labor project. The department shall present this information to the Kentucky State Corrections Commission; and
 - (e) Have written documentation of compliance with the National Environmental Policy Act (NEPA).
- (7) The leasing of prisoner labor shall not be deemed to create an employer-employee relationship between the person leasing the labor of the prisoner and the prisoner. However, the person leasing the labor of the prisoner shall provide for workers' compensation coverage for the prisoner and, if applicable, Social Security coverage for the prisoner.
- (8) A prisoner, as a condition of participation in a program operating under the provisions of this section, shall agree to the deductions from the prisoner's earnings set out in this subsection. The department or the person leasing the labor of the prisoner shall deduct, in the following order, from a prisoner's gross wages:
- (a) If the prisoner is the subject of a court or administrative order for the support of a dependent, no less than twenty-five percent (25%) for the payment of the court or administratively ordered support. These deducted wages shall be paid to the Cabinet for Health and Family Services' Child Support Enforcement Program for disbursement in accordance with federal and state law;
 - (b) Twenty percent (20%) to be paid to the crime victim's compensation fund established in KRS 49.480;
 - (c) Applicable federal, state, and local taxes, including Social Security if applicable; and
 - (d) Reasonable room and board fees established by the department by administrative regulation.

Total deductions from a prisoner's gross wages shall not exceed eighty percent (80%).

- (9) The department shall require any person leasing the labor of a prisoner to post bond, with good surety, in an amount determined by the department, against any judgment that may be entered against the department arising from the leasing of prisoner labor to that person.
- (10) In leasing prisoner labor under this section, the department shall seek to have the labor leased to the highest responsible bidder.
- (11) The department shall provide for reasonable access to the grounds of the Department of Corrections facilities for the person leasing the inmate labor and for the location of the work and the transporting and siting of equipment and supplies, with the security of the public being paramount.
- (12) The department may promulgate administrative regulations to implement the provisions of this section.

➔Section 97. 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;
 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 Education and ~~Labor~~~~Workforce Development~~ Cabinet, Department of Workforce ~~Development~~~~Investment~~, 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 98. KRS 199.8983 is amended to read as follows:

- (1) There is hereby created the Kentucky Child Care Advisory Council to be composed of eighteen (18) members. The members appointed by the Governor shall serve a term of three (3) years. The appointed members of the council shall be geographically and culturally representative of the population of the Commonwealth. For administrative purposes, the council shall be attached to the department. The members shall be as follows:
- (a) The commissioner of the department, or designee;

- (b) Four (4) members appointed by the Governor representing child-care center providers licensed pursuant to this chapter;
 - (c) Two (2) members appointed by the Governor representing family child-care home providers licensed pursuant to this chapter;
 - (d) Three (3) members appointed by the Governor who are parents, de facto custodians, guardians, or legal custodians of children receiving services from child-care centers or family child-care homes licensed pursuant to this chapter;
 - (e) Three (3) members appointed by the Governor from the private sector who are knowledgeable about education, health, and development of children;
 - (f) The director of the Division of Child Care within the department, or designee, as a nonvoting ex officio member;
 - (g) The commissioner of education, Education and ~~Labor~~~~Workforce Development~~ Cabinet, or designee, as a nonvoting ex officio member;
 - (h) The executive director of the Governor's Office of Early Childhood, or designee, as a nonvoting ex officio member;
 - (i) The commissioner of the Department for Public Health within the cabinet, or designee, as a nonvoting ex officio member; and
 - (j) The state fire marshal, Public Protection Cabinet, or designee, as a nonvoting ex officio member;
- (2) The council shall have two (2) co-chairpersons. One (1) co-chairperson shall be the commissioner of the department, or designee, and one (1) co-chairperson shall be elected by the voting members of the council.
 - (3) Members shall serve until a successor has been appointed. If a vacancy on the council occurs, the Governor shall appoint a replacement for the remainder of the unexpired term.
 - (4) Members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses in accordance with state travel expenses and reimbursement administrative regulations.
 - (5) The council shall meet at least quarterly and at other times upon call of the co-chairpersons.
 - (6) The council shall advise the cabinet on matters affecting the operations, funding, and licensing of child-care centers and family child-care homes. The council shall provide input and recommendations for ways to improve quality, access, and outcomes.
 - (7) The council shall make an annual report by December 1 that provides summaries and recommendations to address the availability, affordability, accessibility, and quality of child care in the Commonwealth. A copy of the annual report shall be provided to the secretary, the Governor, the Legislative Research Commission, and the Child Welfare Oversight and Advisory Committee established in KRS 6.943.

➔Section 99. KRS 200.700 is amended to read as follows:

- (1) The Early Childhood Advisory Council is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including but not limited to employing other persons, consultants, attorneys, and agents. The council shall be attached to the Education and ~~Labor~~~~Workforce Development~~ Cabinet for administrative purposes and shall establish necessary advisory councils. The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or the secretary's designee shall be the appointing authority for the council pursuant to KRS Chapter 18A. The council shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.
- (2) The council shall be headed by an executive director appointed by the Governor pursuant to KRS 12.040. The executive director shall report to the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or the secretary's designee.
- (3) The council shall consist of the following twenty-six (26) members:
 - (a) The state director of Head Start Collaboration;
 - (b) The secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or designee;

- (c) The secretary of the Cabinet for Health and Family Services or designee;
 - (d) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;
 - (e) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;
 - (f) Six (6) private sector members knowledgeable about the health, mental health, education, and development of prenatal to school entry children who shall be appointed by the Governor. One (1) private sector member shall be appointed from each congressional district;
 - (g) Seven (7) citizens at large of the Commonwealth who shall be appointed by the Governor;
 - (h) One (1) early childhood development advocate who shall be appointed by the Governor;
 - (i) One (1) member representing higher education with expertise in early childhood who shall be appointed by the Governor; and
 - (j) Six (6) members appointed by the Governor, including one (1) member from a Head Start program located in the state, one (1) member from a local education agency, one (1) member from the state agency responsible for education, one (1) member from the state agency responsible for child care, one (1) member from the state agency responsible for Part C of the Individuals with Disabilities Education Act (IDEA), and one (1) member from the state agency for health and mental health.
- (4) (a) The initial terms of the private sector and citizen-at-large members of the council shall be for:
- 1. One (1) year for five (5) of the initial terms;
 - 2. Two (2) years for five (5) of the initial terms;
 - 3. Three (3) years for six (6) of the initial terms; and
 - 4. Four (4) years for five (5) of the initial appointments.
- (b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment. The private and citizen-at-large members shall serve no more than two (2) full successive terms. A term shall expire on June 30 in the appropriate year.
- (c) Members shall serve until a successor has been appointed. If a vacancy on the council occurs, the Governor shall appoint a replacement for the remainder of the unexpired term except for the members appointed by the Speaker of the House and President of the Senate.
- (d) The members and nonmember appointees of the council shall comply with the gift and conflict of interest statutes in KRS Chapter 11A. Any conflict of interest issue shall be submitted to the Executive Branch Ethics Commission for resolution.
- (e) The Governor shall appoint the chair of the council from the private sector or citizen-at-large membership.
- (f) The chair may appoint nonmembers of the council to committees or workgroups.
- (5) Private sector and citizen-at-large members and nonmembers appointed to a committee or workgroup shall serve without compensation but shall be reimbursed for reasonable and necessary expenses in accordance with state travel expenses and reimbursement administrative regulations.
- (6) In making appointments to the council, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the council of broad constituencies of Kentucky's early childhood development community.
- (7) The council shall meet at least quarterly and at other times upon call of the chair or a majority of the council.
- (8) Members of the council shall serve on a voluntary basis and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

➔Section 100. KRS 200.703 is amended to read as follows:

- (1) The Early Childhood Advisory Council is responsible for the following:
- (a) Promoting the vision for Kentucky's early childhood system;

- (b) Advocating for improved quality of early childhood services;
- (c) Promoting the definition of school readiness and the expanded and appropriate use of the early childhood standards;
- (d) Strengthening state, regional, and local level coordination and collaboration among the various sectors and settings of early childhood programs in the state;
- (e) Identifying opportunities and strategies to reduce barriers to coordination and collaboration among existing private, federal, and state-funded early childhood programs;
- (f) Developing and implementing recommendations for:
 - 1. Increasing overall participation of children in existing federal, state, and local child care and early education programs, including outreach to underrepresented and special populations;
 - 2. Establishing or improving core elements of the state early childhood system;
 - 3. Enhancing the professional development system and career ladder for early childhood educators and caregivers; and
 - 4. Promoting high-quality state early learning standards and undertaking efforts to ensure the development and use of high-quality comprehensive early learning standards, as appropriate;
- (g) Assessing the capacity and effectiveness of institutes of higher education in the state toward supporting the development of early childhood educators;
- (h) Facilitating the development or enhancement of high-quality systems of early childhood care and education designed to improve school readiness through one (1) or more of the following activities:
 - 1. Promoting school preparedness of children from birth through school entry;
 - 2. Supporting professional development, recruitment, and retention initiatives for early childhood educators and caregivers;
 - 3. Enhancing existing early childhood education and development programs and services;
 - 4. Carrying out other activities consistent with the state's plan and application; and
 - 5. Establishing priorities for programs and the expenditure of funds that include but are not limited to the following:
 - a. Implementation of public health initiatives identified by the General Assembly, including those listed in KRS 211.690 and 199.8945;
 - b. Provision of preconception and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;
 - c. Voluntary immunization for children not covered by public or private health insurance;
 - d. Expanding availability of high-quality, affordable early child-care and education options; and
 - e. Increasing public awareness of the importance of the early childhood years for the well-being of all of Kentucky's citizens;
- (i) Requesting reports and issuing progress updates on state and federally funded services that impact the quality of Kentucky's early childhood system;
- (j) Receiving, requesting, and utilizing, consistent with this section, federal, state, and private funds, including from philanthropic sources;
- (k) Involving the corporate community, county judge/executives, and mayors in supporting issues of importance to working families with young children in the Commonwealth;
- (l) Collecting and disseminating information about the various ways business and local government can become involved in supporting early childhood; and
- (m) Other duties and responsibilities as designated by the Governor.

- (2) The council shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the council shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in the final report and recommendations of the Governor's Task Force on Early Childhood Development and Education, November 2010, and recommendations identified by the community early childhood councils. The council shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.
- (3) Programs funded by the council shall be implemented by the appropriate agencies within the Cabinet for Health and Family Services, the Education and ~~Labor~~~~Workforce Development~~ Cabinet, the Finance and Administration Cabinet, or other appropriate administrative agency.
- (4) The council shall assure that a public hearing is held on the expenditure of funds. 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.
- (5) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
 - (a) Coordinate and improve early childhood development services, outcomes, and policies;
 - (b) Establish procedures that relate to its governance;
 - (c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;
 - (d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;
 - (e) Establish procedures for accountability and measurement of the success of programs that receive funds from the council; and
 - (f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:
 1. The financial management of funds paid to grantees;
 2. The maintenance of records; and
 3. An independent audit of the use of grant funds.
- (6) The council may disband or suspend a community early childhood council, and may remove one (1) or more members for nonperformance or malfeasance. The council may also recover funds that have been determined by the council to have been misappropriated or misspent in relation to a grant award.
- (7) An appeal to the council may be made by a community early childhood council as to a decision made by the council on the disbanding or suspension of a community early childhood council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.
- (8) The council, community early childhood councils established by the council, and initiatives funded by the council with expenditures from the early childhood development fund shall expire when:
 - (a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or
 - (b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the council, the community early childhood councils established by the council, or any programs that had been funded by the council with expenditures from the early childhood development fund.
- (9) The council shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the council for use by the councils.

➔Section 101. KRS 207.130 is amended to read as follows:

As used in KRS 207.140 to 207.240 unless the context otherwise requires:

- (1) "Persons" means one (1) or more individuals, partnerships, municipalities, the state, or other political subdivisions within the state, associations, labor organizations, or corporations.
- (2) "Physical disability" means the physical condition of a person whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.
- (3) "Employer" means a person or governmental unit or officer in this state having in his or its employ eight (8) or more individuals; and any person acting in the interest of an employer, directly or indirectly.
- (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 system or board, or joint council so engaged which is subordinate to a national or international labor organization.
- (5) "Unfair employment practice" means an act that is prohibited under KRS 207.150, 207.160 or 207.170.
- (6) "Commissioner" means the commissioner of the Department of Workplace Standards, under the direction and supervision of the secretary of the *Education and Labor Cabinet*.
- (7) "Department" means the Department of Workplace Standards in the *Education and Labor Cabinet*.

➔Section 102. KRS 207.230 is amended to read as follows:

Notwithstanding the provisions of KRS 207.200 and 207.210, citizen suits may be commenced under the following terms and conditions:

- (1) Any person deeming himself injured by any act in violation of the provisions of this chapter shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained by him, and upon judicial finding of any violation of KRS 207.150 to 207.190, shall recover the costs of the law suit, including a reasonable fee for his attorney of record, all of which shall be in addition to any other remedies contained in KRS 207.130 to 207.240.
- (2) Notice. No action may be commenced:
 - (a) Prior to thirty (30) days after the plaintiff has given notice of the violation to the commissioner of workplace standards.
 - (b) If the commissioner of workplace standards has commenced and is diligently prosecuting a civil action to require compliance with KRS 207.130 to 207.240; however, the aforementioned conditions do not prohibit citizen-initiated civil enforcement action contemporaneously with criminal enforcement efforts by the state.
 - (c) In any civil action under this section, the commissioner of workplace standards, under the direction of the secretary of the *Education and Labor Cabinet*, if not a party, may intervene only with consent of the person bringing the action. If the administrator is allowed to intervene, he may not alter the cause of action, delay the proceedings, or make any decisions, settlement agreements, or agree to any consent orders or enforcement proceeding without the informed consent of the person initiating the citizens enforcement action.

➔Section 103. KRS 210.031 is amended to read as follows:

- (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Behavioral Health, Developmental and Intellectual Disabilities of the need for particular services for persons who are deaf or hard-of-hearing.
 - (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:
 1. The Kentucky Association of the Deaf;
 2. The A.G. Bell Association;

3. The Kentucky School for the Deaf Alumni Association; and
4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

- (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.
 - (c) The head of each of the following entities shall appoint one (1) member to the advisory committee:
 1. The Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities;
 2. The Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet, Office of Vocational Rehabilitation;
 3. The Cabinet for Health and Family Services, Department for Aging and Independent Living;
 4. The Education and ~~Labor~~~~Workforce~~~~Development~~ Cabinet, Commission on the Deaf and Hard of Hearing;
 5. The Kentucky Registry of Interpreters for the Deaf; and
 6. A Kentucky School for the Deaf staff person involved in education.
 - (d) The remaining member shall be a representative of a regional board for mental health or individuals with an intellectual disability, appointed by the commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities from a list composed of two (2) names submitted by each regional board for mental health or individuals with an intellectual disability.
- (2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.
 - (3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) of this section shall serve without compensation or reimbursement of any kind.
 - (4) The Department for Behavioral Health, Developmental and Intellectual Disabilities shall make available personnel to serve as staff to the advisory committee.
 - (5) The advisory committee shall meet quarterly at a location determined by the committee chair.
 - (6) (a) The advisory committee shall prepare a biennial report which:
 1. Describes the accommodations and the mental health, intellectual disability, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
 2. Reports the number of deaf or hard-of-hearing persons served;
 3. Identifies additional service needs for the deaf and hard-of-hearing; and
 4. Identifies a plan to address unmet service needs.
 - (b) The report shall be submitted to the secretary, the commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

➔Section 104. KRS 218A.278 is amended to read as follows:

- (1) For the purposes of this section:
 - (a) "Analyze" means to apply scientific and mathematical measures to determine meaningful patterns and associations in data. "Analyze" includes descriptive analysis to examine historical data, predictive analysis to examine future probabilities and trends, and prescriptive analysis to examine how future decisions may impact the population and trends; and

- (b) "Pilot program" means a program in a county or set of counties, or a subset or subsets of the population, as designated by the Cabinet for Health and Family Services and the Office of Drug Control Policy for analyzing the effectiveness of substance abuse treatment services in Kentucky.
- (2) The general purpose of this section is to assist in the development of a pilot program to analyze the outcomes and effectiveness of substance abuse treatment programs in order to ensure that the Commonwealth is:
 - (a) Addressing appropriate risk and protective factors for substance abuse in a defined population;
 - (b) Using approaches that have been shown to be effective;
 - (c) Intervening early at important stages and transitions;
 - (d) Intervening in appropriate settings and domains; and
 - (e) Managing programs effectively.
- (3) Sources of data for the pilot program shall include, at a minimum, claims under the Kentucky Department for Medicaid Services, the electronic monitoring system for controlled substances established under KRS 218A.202, and the Department of Workers' Claims within the *Education and* Labor Cabinet.
- (4) As funds are available, the Cabinet for Health and Family Services and the Office of Drug Control Policy shall initiate a pilot program to determine, collect, and analyze performance measurement data for substance abuse treatment services to determine practices that reduce frequency of relapse, provide better outcomes for patients, hold patients accountable, and control health costs related to substance abuse.
- (5) By December 31, 2016, the Cabinet for Health and Family Services and the Office of Drug Control Policy shall issue a joint report to the Legislative Research Commission and the Office of the Governor that:
 - (a) Details the findings of the pilot program;
 - (b) Includes recommendations based on the pilot program's results for optimizing substance abuse treatment services; and
 - (c) Includes recommendations for the continued application of analytics to further augment Kentucky's approach to fighting substance abuse in the future.

➔Section 105. KRS 222.480 is amended to read as follows:

- (1) The Advisory Council for Recovery Ready Communities is hereby created and shall be attached to the Office of Drug Control Policy within the Justice and Public Safety Cabinet for administrative purposes.
- (2) The Advisory Council for Recovery Ready Communities shall consist of the following members:
 - (a) One (1) representative from the Kentucky League of Cities, appointed by the Governor;
 - (b) One (1) representative from the Kentucky Association of Counties, appointed by the Governor;
 - (c) One (1) representative from the Kentucky Chamber of Commerce, appointed by the Governor;
 - (d) One (1) representative from the Recovery Consortium of Kentucky, appointed by the Governor;
 - (e) One (1) representative from the Kentucky School Boards Association, appointed by the Governor;
 - (f) One (1) representative that represents the leadership of active law enforcement officers in Kentucky, appointed by the Governor;
 - (g) One (1) representative that is a practicing physician with an active license in Kentucky representing the medical profession, appointed by the Governor;
 - (h) One (1) representative from the Kentucky Pharmacists Association, appointed by the governor;
 - (i) One (1) representative from a family advocate organization who shall have experience in substance use recovery disorders, appointed by the Governor;
 - (j) One (1) representative from a faith community organization who shall have experience in substance use recovery disorders, appointed by the Governor
 - (k) Two (2) individuals in recovery from a substance use disorder, one (1) of whom has served time in jail or prison due to a substance use disorder, appointed by the Governor;

- (l) The Chief Justice of the Supreme Court, or his or her designee;
- (m) The Attorney General, or his or her designee;
- (n) The commissioner of the Department for Public Health, or his or her designee;
- (o) The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, or his or her designee;
- (p) The commissioner of the Department of Corrections, or his or her designee;
- (q) The commissioner of the Department of Workforce ~~Development~~~~Investment~~, or his or her designee;
- (r) The public advocate, or his or her designee;
- (s) The President of the Senate, or his or her designee;
- (t) The Speaker of the House, or his or her designee; and
- (u) One (1) representative from the Kentucky Association of Regional Programs, appointed by the Governor.

The Governor shall designate a chairperson.

- (3) Appointed members of the Advisory Council for Recovery Ready Communities 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) The Governor shall appoint advisory council members who reflect, inasmuch as possible, the political, geographic, gender, age, and racial diversity of the population of the Commonwealth.
- (5) The Advisory Council for Recovery Ready Communities shall:
 - (a) Establish a Kentucky Recovery Ready Community Certification Program for cities and counties. The purpose of the certification program is to provide a quality measure of a city's or county's substance use disorder recovery programs and to assure citizens and businesses that a city or county is committed to ensuring the availability of high quality recovery programs in its community that can help lead to a highly skilled community workforce;
 - (b) Establish guidelines, protocols, standards, and an application and approval process for cities and counties related to the Kentucky Recovery Ready Community Certification Program;
 - (c) Ensure that the certification process evaluates a city's or county's availability of high quality substance use treatment programs in their communities for persons in active, post, and recovered addiction status;
 - (d) Request and utilize federal, state, and private funds, including funds from philanthropic sources;
 - (e) Improve procedures for ensuring accountability and measuring success of recovery programs that receive state, federal, and philanthropic funds; and
 - (f) Other duties and responsibilities as designated by the Governor.
- (6) The Justice and Public Safety Cabinet may contract with any public or private agency or any individual for research, the gathering of information, the printing and publication of reports, consulting, or for any other purpose necessary to discharge the duties of the advisory council.
- (7) The Justice and Public Safety Cabinet, in collaboration with the Advisory Council for Recovery Ready Communities created under subsection (1) of this section, may promulgate administrative regulations pursuant to KRS Chapter 13A to carry out this section.

➔Section 106. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

- (1) One (1) representative from each of the following entities:
 - (a) Department of Agriculture, appointed by the Commissioner of Agriculture;
 - (b) Tourism, Arts and Heritage Cabinet, appointed by the secretary of the cabinet;
 - (c) Education and ~~Labor~~~~Workforce Development~~ Cabinet, appointed by the secretary of the cabinet;

- (d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
 - (e) University of Kentucky Cooperative Extension Service;
 - (f) Kentucky Tourism Council;
 - (g) Kentucky Farm Bureau;
 - (h) Kentucky Association of Fairs and Horse Shows;
 - (i) Southern and Eastern Kentucky Tourism Development Association;
 - (j) Licking River Valley Resource Conservation and Development Council;
 - (k) Buffalo Trace Covered Bridge Authority;
 - (l) Kentucky Chamber of Commerce;
 - (m) Kentucky Council of Area Development Districts; and
 - (n) Jackson Purchase Resource Conservation and Development Foundation, Inc.;
- (2) The Governor, or a designee;
 - (3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and
 - (4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

➔Section 107. KRS 281.870 is amended to read as follows:

- (1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health and Family Services, and the Education and ~~Labor~~~~[Workforce Development]~~ Cabinet.
- (2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet and the Cabinet for Health and Family Services shall each have two (2) votes, and the Education *and Labor* Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.
- (3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

➔Section 108. KRS 281.872 is amended to read as follows:

- (1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.
- (2) The program coordinator shall initially investigate all complaints regarding recipients, subcontractors, and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health and Family Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.
- (3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is actually ineligible to receive transportation services. A broker who violates the provisions of

this subsection shall be fined one thousand dollars (\$1,000) and shall be subject to his or her contract being revoked by the cabinet. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health and Family Services, and the Education and ~~Labor/Workforce Development~~ Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.

- (4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health and Family Services, and the Education and ~~Labor/Workforce Development~~ Cabinet strictly adhere to the provisions of 42 C.F.R. governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of their right to a hearing to be held in the county where the person lives, and the process to follow to obtain a hearing.
- (5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

➔Section 109. KRS 304.13-167 is amended to read as follows:

- (1) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the commissioner by an advisory organization designated by the commissioner.
- (2) Every workers' compensation insurer shall report its experience in accordance with the statistical plans and other reporting requirements in use by an advisory organization designated by the commissioner.
- (3) A workers' compensation insurer may develop subclassifications of the uniform classification system upon which rates may be made. These subclassifications and their filing shall be subject to the provisions of this chapter applicable to filings generally.
- (4) A workers' compensation insurer may develop rating plans which identify loss experience as a factor to be used. These rating plans and their filing shall be subject to the provisions of this chapter applicable to filings generally.
- (5) The commissioner shall disapprove subclassifications, rating plans, or other variations from manual rules filed by a workers' compensation insurer if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform classification system and experience rating system and in such a fashion so as to allow for the application of experience rating filed by the advisory organization.
- (6) The commissioner shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers who implement a drug-free workplace program pursuant to administrative regulations adopted by the Department of Workers' Claims in the *Education and Labor Cabinet*. The plans shall take effect January 1, 2008, shall be actuarially sound, and shall state the savings anticipated to result from such drug-free workplace programs. The credit shall be at least five percent (5%) unless the commissioner determines that five percent (5%) is actuarially unsound. The commissioner is also authorized to develop a schedule of premium credits for workers' compensation insurance for employers who have safety programs that contain certain criteria for safety programs. The commissioner shall consult with the commissioner of the Department of Workers' Claims in the *Education and Labor Cabinet* in setting such criteria. A drug-free workplace credit under this subsection shall not be available to employers who receive a credit under KRS 304.13-412 or KRS Chapter 351.

➔Section 110. KRS 304.20-090 is amended to read as follows:

Any insurer providing workers' compensation insurance coverage for a Kentucky location shall provide proof of coverage to the commissioner of the Department of Workers' Claims in the *Education and Labor Cabinet* in accordance with the requirements of the chapter.

➔Section 111. KRS 336.010 is amended to read as follows:

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

- (1) "Secretary" means secretary of the *Education and* Labor Cabinet; and
- (2) "Cabinet" means *Education and* Labor Cabinet.

➔Section 112. KRS 336.045 is amended to read as follows:

- (1) The *Education and* Labor Cabinet shall administer and supervise state employment offices and perform any other duties within the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the State in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free public employment offices are vested in the *Education and* Labor Cabinet, except that on or before April 15, 2021, there shall be twelve (12) regional full-time free public employment offices open, fully operational, and staffed by properly trained unemployment insurance specialists in each of the regions where the secretary has determined there is an average unemployment rate above five percent (5%) for the preceding six (6) month period ending either on June 30 or December 31. The *Education and* Labor Cabinet may, at its discretion, open and operate additional free public employment satellite offices on a full or partial schedule.
- (2) The provisions of the Wagner-Peyser Act, as amended, are accepted by this state in conformity with Section 4 of that Act, and this state will observe and comply with the requirements of that Act. The *Education and* Labor Cabinet is designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act.

➔Section 113. KRS 336.130 is amended to read as follows:

- (1) Employees may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employees, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes, except that no public employee, collectively or individually, may engage in a strike or a work stoppage. Nothing in this statute and KRS 65.015, 67A.6904, 67C.406, 70.262, 78.470, 78.480, 336.132, 336.134, 336.180, 336.990, and 345.050 shall be construed as altering, amending, granting, or removing the rights of public employees to associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare.
- (2) Neither employers or their agents nor employees or associations, organizations or groups of employees shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.
- (3) (a) Notwithstanding subsection (1) of this section or any provision of the Kentucky Revised Statutes to the contrary, no employee shall be required, as a condition of employment or continuation of employment, to:
 1. Become or remain a member of a labor organization;
 2. Pay any dues, fees, assessments, or other similar charges of any kind or amount to a labor organization; or
 3. Pay to any charity or other third party, in lieu of these payments, any amount equivalent to or pro rata portion of dues, fees, assessments, or other charges required of a labor organization.
- (b) As used in this subsection, the term "employee" means any person employed by or suffered or permitted to work for a public or private employer.
- (4) The secretary of the *Education and* Labor Cabinet or his or her representative shall investigate complaints of violations or threatened violations of subsection (3) of this section and may initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor and ensure effective enforcement.
- (5) Except in instances where violence, personal injury, or damage to property have occurred and such occurrence is supported by an affidavit setting forth the facts and circumstances surrounding such incidents, the

employees and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) of this section without a hearing first being held, unless the employees or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.

- (6) Submission of a false affidavit concerning violence, personal injury, or damage to property shall constitute a violation of KRS 523.030. In the absence of any such affidavit alleging violence, personal injury, or damage injunctions shall be issued only by a Circuit Judge or other justice or judge acting as a Circuit Judge pursuant to law.

➔Section 114. KRS 336.990 is amended to read as follows:

- (1) Upon proof that any person employed by the *Education and* Labor Cabinet as a labor inspector has taken any part in any strike, lockout or similar labor dispute, the person shall forfeit his or her office.
- (2) The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:
- (a) Any person who violates KRS 336.110 or 336.130 shall for each offense be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000);
 - (b) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense;
 - (c) Any employer who violates the provisions of KRS 336.220 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation; and
 - (d) Any labor organization who violates KRS 336.135 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.
- (3) Any labor organization, employer, or other person who directly or indirectly violates KRS 336.130(3) shall be guilty of a Class A misdemeanor.
- (4) Any person aggrieved as a result of any violation or threatened violation of KRS 336.130(3) may seek abatement of the violation or threatened violation by petitioning a court of competent jurisdiction for injunctive relief and shall be entitled to costs and reasonable attorney fees if he or she prevails in the action.
- (5) Any person injured as a result of any violation or threatened violation of KRS 336.130(3) may recover all damages resulting from the violation or threatened violation and shall be entitled to costs and reasonable attorney fees if he or she prevails in the action.

➔Section 115. KRS 337.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the *Education and* Labor Cabinet;
 - (b) "Department" means the Department of Workplace Standards in the *Education and* Labor Cabinet;
 - (c) 1. "Wages" includes any compensation due to an employee by reason of his or her employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States, checks on banks, direct deposits, or payroll card accounts convertible into cash on demand at full face value, subject to the allowances made in this chapter. However, an employee may not be charged an activation fee and the payroll card account shall provide the employee with the ability, without charge, to make at least one (1) withdrawal per pay period for any amount up to and including the full account balance.
 2. For the purposes of calculating hourly wage rates for scheduled overtime for professional firefighters, as defined in KRS 95A.210(8), "wages" shall not include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund. For the purposes of calculating hourly wage rates for unscheduled overtime for professional firefighters, as defined in KRS 95A.210(9), "wages" shall include the

distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund;

- (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
- (e) "Employee" is any person employed by or suffered or permitted to work for an employer, except that:
 1. Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter; and
 2. Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.

For purposes of this paragraph, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1.

- (2) As used in KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, unless the context requires otherwise:
 - (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 1. Any individual employed in agriculture;
 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
 3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his or her employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than two hundred ten (210) days in any calendar year;

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670;
 12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver, family home provider, or adult foster care provider and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community board for mental health or individuals with an intellectual disability established under KRS 210.370 to 210.460 or through a contractual relationship with a certified waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care;
 13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue Code of 1986; or
 14. Any individual whose function is to provide behavior support services, behavior programming services, case management services, community living support services, positive behavior support services, or respite services through a contractual relationship with a certified waiver provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(c) home and community based services waiver program, as defined in 907 KAR 7:005 sec. 1(2);
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
 - (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
 - (d) "Tipped employee" means any employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
 - (e) "U.S.C." means the United States Code.

➔Section 116. KRS 337.075 is amended to read as follows:

- (1) A lien may be placed on all property, both real and personal, of an employer who has been assessed civil penalties by the commissioner for violations of the wages and hours provisions of this chapter, but not before all administrative and judicial appeals have been exhausted. The lien shall be in favor of the *Education and Labor Cabinet* and shall be an amount totaling the unpaid wages and penalties due, together with interest at a rate of twelve percent (12%) per annum from the date the notice of the violation is final, but not before all administrative and judicial appeals have been exhausted. The lien shall be attached to all property and rights to property owned or subsequently acquired by the employer. The commissioner or the commissioner's designee shall record the lien as provided in subsection (2) of this section. The lien shall show the date on which the notice of violation was issued, the date of the violation, the name and last known address of the employer against whom the assessment was made, and the amount of unpaid wages, penalties, and interest. The lien shall be superior to the lien of any mortgage or encumbrance thereafter created and shall continue for ten (10) years from the time of the recording, unless sooner released or otherwise discharged.
- (2) The lien shall be filed in any of the following offices in which the employer owns property or rights to property and any filing fees associated with filing the lien shall be pursuant to KRS 64.012:
 - (a) The office of the county clerk of the county in which the defendant employer resides.
 - (b) The office of the county clerk of the county in which the defendant employer has its principal place of business.
 - (c) The office of the county clerk of any county in which the defendant employer has property or an interest in property.

➔Section 117. KRS 337.420 is amended to read as follows:

- (1) "Employee" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

- (2) "Employer" means a person who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.
- (3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and 337.990(11).
- (4) "Employ" includes to suffer or permit to work.
- (5) "Occupation" includes any industry, trade, business, or branch thereof, or any employment or class of employment.
- (6) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the *Education and Labor Cabinet*.
- (7) "Person" includes one (1) or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

➔Section 118. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed *by the Education and Labor Cabinet*, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

- (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.
- (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.
- (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.
- (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation.
- (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and each day that the failure continues shall be deemed a separate offense.
- (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or the commissioner's authorized representative in the performance of his or her duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or the commissioner's authorized representative shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any subsequent violation of KRS 337.285(4) to (9) and each day the employer violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.
- (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his or her employer, to the commissioner, or to the commissioner's authorized representative that he or she has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to

testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

- (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) A person shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:
 - (a) Made any complaint to his or her employer, the commissioner, or any other person; or
 - (b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or
 - (c) Testified, or is about to testify, in any such proceedings.

➔Section 119. KRS 337.994 is amended to read as follows:

Any employer who violates KRS 337.200 shall be fined *by the Education and Labor Cabinet* not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each day that the employer violates KRS 337.200 shall constitute a separate offense and penalty. If the employer is a corporation, the officers of the corporation shall be personally liable for the penalty imposed herein.

➔Section 120. KRS 338.015 is amended to read as follows:

As used in this chapter:

- (1) "Employer" shall mean any entity for whom a person is employed except those employers excluded in KRS 338.021;
- (2) "Employee" shall mean any person employed except those employees excluded in KRS 338.021;
- (3) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. "Standard" has the same meaning as and includes the words "regulation" and "rule";
- (4) "Occupational safety and health hazard" means any practice or condition in a place of employment which may be deemed detrimental to the safety and health of employees;
- (5) "Occupational injury or illness" means any abnormal condition or disorder of an employee caused by exposure to factors associated with his or her employment;
- (6) "Board" means the Kentucky Occupational Safety and Health Standards Board established under this chapter;
- (7) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the *Education and Labor Cabinet*;
- (8) "Review commission" means the Kentucky Occupational Safety and Health Review Commission established under this chapter;
- (9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization;
- (10) The term "established federal standard" means any operative occupational safety and health standard established by any agency of the United States government;
- (11) "Department" means the Department of Workplace Standards; and
- (12) "Secretary" means the secretary of the *Education and Labor Cabinet*.

➔Section 121. KRS 338.041 is amended to read as follows:

- (1) The Department of Workplace Standards in the *Education and Labor Cabinet* shall administer all matters pertaining to occupational safety and occupational health.
- (2) The department may require the assistance of other state agencies and may enter into agreements with other state agencies and political subdivisions of the Commonwealth for the administration of this chapter.

- (3) The department may enter into an agreement with the Cabinet for Health and Family Services and other appropriate departments or agencies to conduct research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems in the administration of this chapter.

➔Section 122. KRS 338.051 is amended to read as follows:

- (1) There is hereby established the Kentucky Occupational Safety and Health Standards Board consisting of the secretary and twelve (12) members equally representing industry, labor, agriculture, and the safety and health profession. The members shall be appointed by the Governor for terms of three (3) years and until their successors are appointed and qualified, from lists of nominees submitted by bona fide associations representative of industry, labor, agriculture, and the safety and health profession. Members shall receive twenty-five dollars (\$25) per day for attending each meeting and shall be reimbursed for actual expenses incurred in carrying out their duties. The secretary shall act as chairman of the board. No member of the board may have a concurrent term on the review commission.
- (2) The board shall hold annual meetings and additional meetings as needed. A majority of the board constitutes a quorum for the transaction of business.
- (3) The board shall adopt and promulgate occupational safety and health rules, regulations, and standards, except that the chairman of the board may adopt established federal standards without board approval if necessary to meet federal time requirements. The board shall secure all expertise, testimony, and evidence necessary to accomplish the purposes of this chapter.
- (4) The board shall be attached to the *Education and* Labor Cabinet for administrative purposes.

➔Section 123. KRS 338.071 is amended to read as follows:

- (1) There is hereby established the Kentucky Occupational Safety and Health Review Commission consisting of three (3) members appointed by the Governor on the basis of their experience and competence in the fields of occupational safety and health. The members selected shall be qualified to represent the interest of employers, employees, and the occupational safety and health profession with a minimum of five (5) years experience in their respective fields.
- (2) Members of the review commission shall serve terms of four (4) years and until their successors are appointed.
- (3) The review commission shall hold monthly meetings and additional meetings as deemed necessary. A majority of the review commission constitutes a quorum for the transaction of business. Special meetings of the review commission may be called upon reasonable notice by the commissioner or by any two (2) members of the commission.
- (4) The review commission shall hear and rule on appeals from citations, notifications, and variances issued under the provisions of this chapter and adopt and promulgate rules and regulations with respect to the procedural aspect of its hearings.
- (5) The review commission shall have the authority to employ a secretary, hearing officers, and other employees as may become necessary.
- (6) The chairman of the commission and each of the other two (2) members shall be paid a salary fixed under KRS 64.640.
- (7) The secretary of the commission shall be paid a salary to be fixed by the commission, with the approval of the Governor. The commission shall fix the compensation of all its other employees.
- (8) The commissioners and the secretary and employees of the commission are entitled to all necessary expenses incurred in traveling on business of the commission.
- (9) The commission shall be attached to the *Education and* Labor Cabinet for administrative purposes only.

➔Section 124. KRS 338.121 is amended to read as follows:

- (1) Any employee, or representative of employees, who believes that a violation of an occupational safety and health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the commissioner of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the

employees or representative of employees, and a copy shall be provided the employer or the employer's agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy.

- (2) If upon receipt of notification, reasonable grounds are believed to exist for such violation or danger, then a special inspection shall be made in accordance with the provisions of KRS 338.101 and 338.111. If no reasonable grounds are believed to exist for such violation of danger, then the commissioner shall notify the employee or the representative of the employees in writing of such determination.
- (3) (a) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by this chapter; and
 - (b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of this subsection may, within a reasonable time after such violation occurs, file a complaint with the commissioner alleging such discrimination. Upon receipt of such complaint, the commissioner shall cause such investigation to be made as deemed appropriate. If upon such investigation, the commissioner determines that the provisions of this subsection have been violated, he or she shall issue a citation to the employer which may be challenged or contested in accordance with the provisions of this chapter and the review commission may order all appropriate relief including rehiring and reinstatement of the employee to his or her former position with back pay. Upon an initial determination by the commissioner that an employee has been discharged by an employer in violation of subsection (3)(a) of this section, the secretary of the *Education and Labor Cabinet* may order reinstatement of the employee pending a final determination and order of the review commission.

➔Section 125. KRS 338.191 is amended to read as follows:

It shall be the duty of the Attorney General, upon request of the commissioner, to bring all necessary civil or criminal actions for violations of the provisions of this chapter and to obtain injunctions against any person violating or threatening to violate any provisions of this chapter. The Attorney General may appoint special counsel to prosecute these claims. In the event special counsel is secured, all costs will be borne by the *Education and Labor Cabinet*.

➔Section 126. KRS 338.201 is amended to read as follows:

- (1) A lien may be placed on all property, both real and personal, of an employer who has violated any requirement of this chapter, if the citation issued by the commissioner has been upheld by a final order of the review commission, but not before all administrative and judicial appeals have been exhausted. The lien shall be in favor of the *Education and Labor Cabinet* and shall be an amount totaling the penalties due, together with interest at a rate of twelve percent (12%) per annum from the date the order of the review commission is final, but not before all administrative and judicial appeals have been exhausted. The lien shall be attached to all property and rights to property owned or subsequently acquired by the employer. The commissioner or the commissioner's designee shall record the lien as provided in subsection (2) of this section. The lien shall show the date on which the citation was issued, the date of the violation, the name and last known address of the employer against whom the assessment was made, and the amount of penalties and interest. The lien shall be superior to the lien of any mortgage or encumbrance thereafter created and shall continue for ten (10) years from the time of the recording, unless sooner released or otherwise discharged.
- (2) The lien shall be filed in any of the following offices in which the employer owns property or rights to property and any filing fees associated with filing the lien shall be pursuant to KRS 64.012:
 - (a) The office of the county clerk of the county in which the defendant employer resides.
 - (b) The office of the county clerk of the county in which the defendant employer has its principal place of business.
 - (c) The office of the county clerk of any county in which the defendant employer has property or an interest in property.

➔Section 127. KRS 339.205 is amended to read as follows:

As used in this chapter, "commissioner" shall mean the commissioner of the Department of Workplace Standards, under the direction and supervision of the secretary of the *Education and Labor Cabinet*.

➔Section 128. KRS 339.400 is amended to read as follows:

Every person employing minors under eighteen (18) years of age shall keep a separate register containing the names, ages, and addresses of such employees, and the time of commencing and stopping of work for each day, and the time of the beginning and ending of the daily meal period, and shall post and keep conspicuously posted in the establishment wherein any such minor is employed, permitted, or suffered to work, a printed abstract of KRS 339.210 to 339.450, and a list of the occupations prohibited to such minors, together with a notice stating the working hours per day for each day in the week required of them. These records and files shall be open at all times to the inspection of the school directors of pupil personnel and probation officers, and representatives of the *Education and Labor Cabinet* ~~and Department of Education~~.

➔Section 129. KRS 341.005 is amended to read as follows:

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

- (1) "Cabinet" means the Education and *Labor* ~~Workforce Development~~ Cabinet;
- (2) "Secretary" means the secretary of the Education and *Labor* ~~Workforce Development~~ Cabinet or his or her duly authorized representative; and
- (3) "Commission" means the unemployment insurance commission.

➔Section 130. KRS 341.080 is amended to read as follows:

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

- (1) Except in so far as the Education and *Labor* ~~Workforce Development~~ Cabinet by *administrative* regulation prescribes the equivalent thereof to meet particular conditions:
 - (a) "Calendar year" means a year beginning on January 1; and
 - (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;
- (2) "Week" means such period of seven (7) consecutive calendar days as the ~~Education and Workforce Development~~ cabinet ~~regulation~~ prescribes *in administrative regulation*; and
- (3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by the ~~Education and Workforce Development~~ cabinet in administrative regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

➔Section 131. KRS 341.110 is amended to read as follows:

- (1) In the Education and *Labor* ~~Workforce Development~~ Cabinet, there shall be an Unemployment Insurance Commission composed of the secretary or his or her duly authorized representative, as ex officio chairman and two (2) members appointed by the Governor.
- (2) The secretary shall represent the state and the public. One (1) member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.
- (3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years of age.
- (4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.
- (5) The compensation of the members representing labor and employers shall be \$12,000 each per annum.

➔Section 132. KRS 341.125 is amended to read as follows:

- (1) It shall be the duty of the secretary of the Education and *Labor* ~~Workforce Development~~ Cabinet to administer this chapter; and he shall have power and authority to make such expenditures, require such reports, make such investigations, and take such other action not specifically assigned to the cabinet, as he or she deems necessary for the proper administration of this chapter.

- (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45, and 45A, to appoint, fix the compensation, and prescribe duties and powers of such officers and employees as may be necessary in the performance of his or her duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any such person so appointed such power and authority as he or she deems reasonable and proper for the effective administration of this chapter.
- (3) The salary and expenses of the secretary and his or her staff shall be considered a proper cost of the administration of this chapter, to be charged to the unemployment compensation administration fund in that proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the cabinet.
- (4) The secretary shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as he or she deems proper.
- (5) In the administration of this chapter the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

➔Section 133. KRS 341.145 is amended to read as follows:

- (1) The secretary of the Education and ~~Labor~~~~(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 Department of Workforce ~~Development~~~~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 134. KRS 341.190 is amended to read as follows:

- (1) As used in this section:
 - (a) "Agent" means one who acts for or in the place of an individual, an employing unit, or a public official by the authority of that individual, employing unit, or public official; and
 - (b) "Public official" means an official, agency, or public entity within the executive branch of federal, state, or local government who or which has responsibility for administering or enforcing a law, or an elected official in federal, state, or local government.
- (2) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary of the Education and ~~Labor~~~~Workforce~~ ~~Development~~ Cabinet considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his or her authorized representatives at any reasonable time and as often as necessary.
- (3) The secretary may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid-off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary considers necessary to the effective administration of this chapter.

- (4) Information obtained from an employing unit or individual and other records made by the cabinet in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as provided below and in subsections (5) and (6) of this section:
- (a)
 1. Public officials and the agents and contractors of public officials, in the performance of their official duties, may be provided information and records, but the public officials receiving the information and records shall assure the confidentiality, as required in this section, of all information and records so released. Official duties do not include solicitation of contributions or expenditures to or on behalf of a candidate for public office or a political party;
 2. A contractor shall include a temporary staffing engaged by the cabinet for any purpose in connection with the administration of this chapter; and
 3. Disclosures shall be made under this subsection only if the recipient has entered into a written, enforceable, and terminable agreement with the cabinet and has satisfied the safeguards set forth in federal statutes and regulations;
 - (b)
 1. An individual or employing unit shall be provided, upon request, information and records maintained by the cabinet in the administration of wage records, claim, reserve account, reimbursing employer account, or any proceeding under this chapter to which it is a party.
 2. An agent of an individual or employing unit shall be provided the individual's or employing unit's information and records upon the presentation of a written release or other legally enforceable evidence of the informed consent of the individual or employing unit.
 3. An attorney retained by an individual or employing unit in any proceeding under this chapter shall be provided the individual's or employing unit's information and records if the attorney asserts in writing that he or she is representing that individual or employing unit.
 4. An elected official performing constituent services shall be provided the individual's or employing unit's information and records if the official presents reasonable written evidence that the individual or employing unit has authorized the disclosure;
 - (c) A third party other than an agent, or third party on an ongoing basis, shall be provided the individual or employing unit's information and records if the individual or employing unit to whom the information pertains provides a signed written release which shall specify:
 1. The information and records to be disclosed;
 2. The purpose for which the information and records are sought, specifying the expected service or benefit to the individual signing the release, or specifying their use in the administration or evaluation of the public program to which the release pertains;
 3. Assurance that the information and records shall be used solely for that purpose;
 4. All parties who may receive the information and records disclosed; and
 5. That state government files shall be accessed to obtain information and records.

Disclosures shall be made under this subsection only if the recipient has entered into a written, enforceable, and terminable agreement with the cabinet and has satisfied the safeguards set forth in federal statutes and regulations;
 - (d) Precedential orders issued by the Unemployment Insurance Commission shall be released provided that Social Security numbers and employer identification numbers have been removed and the disclosure is otherwise consistent with federal and state law;
 - (e) A public official with authority under state or federal law to obtain the information and records by subpoena, other than a clerk of court on behalf of a litigant, shall be provided information and records upon service of a duly issued subpoena;
 - (f) A federal official, when required for the purposes of oversight and auditing of the unemployment insurance program, shall be provided information and records;
 - (g) Statistical information derived from information and records obtained or made by the cabinet may be released to the Bureau of Labor Statistics under a cooperative agreement or may be published, if it in no way reveals the identity of any individual or employing unit; and

- (h) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information and records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.
- (5) Disclosures shall be made under subsection (4) of this section only if:
 - (a) The disclosure is necessary for the proper administration of the unemployment insurance program;
 - (b) No more than an incidental amount of staff time or a nominal processing cost is required to make the disclosure; or
 - (c) The cost of providing the information and records is paid by the recipient prior to the disclosure, consistent with federal laws and regulations, except this requirement shall not apply to disclosures made under subsection (4)(f) of this section nor to disclosures made under subsection (4)(e) and (h) of this section if the cabinet attempts without success to recover the cost of disclosure. For disclosures made to other public officials under subsection (4)(a) of this section, this requirement shall be met if the recipient provides a reciprocal benefit to the cabinet in the administration of the unemployment insurance program, or if a reasonable reimbursement for the disclosure shall be determined under federal law.
- (6) Recipients of information and records disclosed under subsection (4)(a) and (c) of this section may redisclose the information and records only as follows:
 - (a) To the individual or employing unit who is the subject of the information and records;
 - (b) To an attorney or duly authorized agent representing the individual or employing unit;
 - (c) In any civil or criminal proceedings for or on behalf of the recipient;
 - (d) In response to a subpoena but only as provided in subsection (4)(e) and (h) of this section;
 - (e) A public official may redisclose to an agent or contractor, but only if the public official retains responsibility for the uses of the confidential information and records by the agent or contractor and subject to the safeguards set forth in the agreement required under subsection (4) of this section;
 - (f) A public official may redisclose to another public official;
 - (g) A state or local child support enforcement agency may redisclose to its agent under contract for the purpose of carrying out child support enforcement; or
 - (h) When specifically authorized by a written release for redisclosure that meets the requirements of subsection (4)(c) of this section.
- (7) Any disclosure or use of information and records that is inconsistent with the provisions of this section shall be subject to the penalty prescribed in KRS 341.990(11).
- (8) No information and records held confidential under subsection (4) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

➔Section 135. KRS 341.230 is amended to read as follows:

The secretary may authorize the destruction of such original reports and records as have been properly recorded and summarized in the permanent records of the Education and ~~Labor~~~~Workforce Development~~ Cabinet or are no longer considered necessary for the proper administration of this chapter. Wage records of the individual worker or transcripts thereof may be destroyed or disposed of two (2) years after the expiration of the period covered by them or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of the unemployment compensation administration fund.

➔Section 136. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary of the Education and ~~Labor~~~~Workforce Development~~ Cabinet is authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable space for either central or district offices of the

cabinet by way of purchase, lease, contract, or in any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the Commonwealth or any of its agencies wherein available space will be provided for the cabinet under lease or contract between the cabinet and the Commonwealth or such other agency whereby said cabinet will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

➔Section 137. 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~~, 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 138. 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~~, 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 139. 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 ~~of the 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.
- (6) Notwithstanding any other provisions of this chapter, for the calendar year 2021, the employer contribution rates shall be determined using the rates listed in Schedule A of Table A.

➔Section 140. KRS 341.275 is amended to read as follows:

- (1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the Education and ~~Labor/Workforce Development~~ Cabinet and "secretary" shall mean the secretary of the Education and ~~Labor/Workforce Development~~ Cabinet.
- (2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the election but only if the employer is the worker's 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 that employer in each of ten (10) weeks whether or not consecutive.

- (a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.
 - (b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.
 - (c) Any nonprofit organization which makes an election in accordance with paragraph (a) or (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall first be effective, except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.
 - (d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.
 - (e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.
 - (f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).
- (3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.
- (a) At the end of each calendar quarter or at the end of any other period as determined by the secretary, the cabinet shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization plus interest on the total amount billed at the average rate of earnings in the unemployment insurance fund for the prior calendar year. All interest collected under this subsection shall be credited to the unemployment insurance fund.
 - (b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.
 - (c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.
 - (d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the commission setting forth the grounds for such appeal. Proceedings on appeal to the commission from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430, and the decision of the commission shall be subject to review under the provisions of KRS 341.460(1).
 - (e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.

- (4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the cabinet, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.
- (b) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in subsection (3)(e) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.
- (c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit, or adjustment period by not more than sixty (60) days.
- (5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.
- (6) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

➔Section 141. 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~~[-, 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 142. 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, ~~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 [~~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 143. KRS 341.370 is amended to read as follows:

- (1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:
- (a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or
 - (b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or
 - (c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:
 - 1. Leaving his next most recent suitable work which was concurrent with his most recent work;
 - 2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home;
 - 3. Accepting work which is a bona fide job offer with a reasonable expectation of continued employment; or
 - 4. Leaving work to accompany the worker's spouse to a different state, military base of assignment, or duty station that is one hundred (100) road miles or more, as measured on a one (1) way basis, from the worker's home when the spouse is reassigned by the military.
- (2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

- (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the ~~Education and Workforce Development~~ cabinet and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Education and ~~Labor~~~~Workforce Development~~ Cabinet of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.
- (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.
- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.
- (7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

➔Section 144. KRS 341.412 is amended to read as follows:

For the purposes of KRS 341.412 to 341.414:

- (1) "National Directory of New Hires" means the database that stores personal and financial data on employed individuals across the country and contains information and data on individuals receiving unemployment compensation;
- (2) "New hire records" means the directory of newly hired and rehired employees reported under state and federal law and managed by the federal Office of Child Support Enforcement, Administration for Children and Families, United States Department of Health and Human Services, and the Cabinet for Health and Family Services;
- (3) "Office" means the Kentucky Office of Unemployment Insurance;
- (4) "Secretary" means the secretary of the *Education and*~~Kentucky~~ Labor Cabinet;
- (5) "Two-factor authentication" means authentication that requires entry of a username and password followed by entry of another method of identification; and
- (6) "Unemployment insurance rolls" means unemployed workers receiving unemployment insurance in Kentucky.

➔Section 145. 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 ~~[- 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 146. 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~~, 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 thirty-five (35) days after the date they are made.

➔Section 147. 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~~, 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 necessities 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 148. KRS 341.530 is amended to read as follows:

- (1) The Office of Unemployment Insurance~~, 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.

- (9) Notwithstanding any other provisions of this chapter, any benefits paid to an eligible worker for reasons related to a state or federal state of emergency or disaster declaration shall be paid from the pooled account provided in KRS 341.550 and not from the reserve account of the employer of that individual. The reserve account shall not be charged for benefits related to a state of emergency or disaster declaration. Payments shall be accounted for separately to allow the secretary to seek reimbursement from the federal government.

➔Section 149. 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~~], 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 150. 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) (a) 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 herself or for any other person, business entity, or organization shall be guilty of a Class B misdemeanor unless:
1. The value of the benefits procured or attempted to be procured is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
 2. The value of the benefits procured or attempted to be procured is one thousand dollars (\$1,000) or more, in which case it is a Class D felony; or
 3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.
- (b) If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.
- (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 B misdemeanor unless:
1. The liability avoided or attempted to be avoided is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
 2. The liability avoided or attempted to be avoided is one thousand dollars (\$1,000) or more, in which case it is a Class D felony; or
 3. The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

- (b) If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.
 - (c) 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, ~~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 151. 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 *Education and* Labor Cabinet;
- (9) "Commissioner" means the commissioner of the Department of Workers' Claims under the direction and supervision of the secretary of the *Education and* 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 ~~Development~~~~Investment~~, Education and ~~Labor~~~~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 ~~Development~~~~Investment~~ 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 152. KRS 342.120 is amended to read as follows:

- (1) There is created the Division of Workers' Compensation Funds in the Department of Workers' Claims which shall be responsible for the administration of the special fund and the coal workers' pneumoconiosis fund and the maintenance of records regarding the payment of claims by these funds. The Division of Workers' Compensation Funds shall have no responsibility for the coal workers' pneumoconiosis fund once the assets and liabilities have been transferred to the Kentucky Employers' Mutual Insurance Authority, which will administer the fund pursuant to KRS 342.1243. The Division of Workers' Compensation Funds shall be headed by a director appointed by the secretary of the *Education and* Labor Cabinet, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the funds and the maintenance of records regarding the payment of claims by the funds.
- (2) The special fund shall have no liability upon any claim in which the injury occurred, or for cumulative trauma, the disability became manifest, or, for occupational disease, if the date of injury or last exposure occurred, after December 12, 1996.
- (3) Where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, with the period of payment beginning on the date settlement was approved by an administrative law judge. This provision is remedial and shall apply to all pending and future claims.

➔Section 153. 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 *Department of Workers' Claims, Occupational Safety and Health Review Commission, Workers' Compensation Nominating Committee, Department of Workplace Standards, except expenditures for the Division of Wages and Hours contained in the Department of Workplace Standards and the proportional support for general administration and support based on an approved indirect cost allocation plan within the Education and* Labor Cabinet, ~~except the 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 ~~Development~~~~Investment~~, Education and ~~Labor~~~~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 154. KRS 342.1223 is amended to read as follows:

- (1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.
- (2) The commission shall:
 - (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;
 - (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in equity securities;
 - (c) Report to the General Assembly at each even-numbered-year regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;
 - (d) Recommend to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;
 - (e) In conjunction with the *Education and Labor* Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, a proposed budget for the biennium beginning July 1 following the even-numbered-year regular session of the General Assembly;
 - (f) In conjunction with the *Education and Labor* Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;
 - (g) Conduct periodic audits, independently or in cooperation with the *Education and Labor* Cabinet or the Department of Revenue, of all entities subject to the assessments imposed in this chapter; and
 - (h) Report monthly to the Committees on Appropriations and Revenue and on Economic Development and Workforce Investment its monthly expenditures of restricted agency funds and the nature of the expenditures.

- (3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:
- (a) To sue and be sued, complain, or defend, in its name;
 - (b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly. Notwithstanding any provision of KRS Chapter 18A to the contrary, officers and employees of the funding commission may be exempted from the classified service;
 - (c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;
 - (d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;
 - (e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and
 - (f) To make and promulgate administrative regulations.
- (4) The Kentucky Workers' Compensation Funding Commission may utilize the investment expertise and advice of the Office of Financial Management within the Finance and Administration Cabinet. The Kentucky Workers' Compensation Funding Commission may procure one (1) or more consulting firms and enter into a personal service contract with such consulting firms to provide investment advisory, investment counseling, or investment management services. The Office of Financial Management shall participate in the selection of any firms for investment services provided, however, the Kentucky Workers' Compensation Funding Commission shall have the right to make the final decision on the selection of any firms. Notwithstanding any provisions of this section to the contrary, all contracts for investment advisory, investment counseling, or investment management services or for the management of assets shall be subject to KRS Chapter 45A. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.
- (5) The commission shall be attached to the *Education and* Labor Cabinet for administrative purposes only.
- ➔Section 155. KRS 342.1224 is amended to read as follows:
- (1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the *Education and* Labor Cabinet or a designee, the secretary of the Cabinet for Economic Development or a designee, the secretary of the Finance and Administration Cabinet or a designee, and four (4) members who shall be appointed by the Governor.
 - (2) The four (4) appointed members shall include:
 - (a) One (1) member, selected from a list of three (3) submitted by the secretary of the *Education and* Labor Cabinet, who shall represent labor;
 - (b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers; provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth;
 - (c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and
 - (d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.
 - (3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:
 - (a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;
 - (b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

- (c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and
 - (d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.
- (4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.
 - (5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.
 - (6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.
 - (7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.
 - (8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

➔Section 156. KRS 342.1228 is amended to read as follows:

The Kentucky Workers' Compensation Funding Commission shall not be subject to the Governor's power of reorganization under KRS Chapter 12, including attachment or transfer to another organizational unit or administrative body other than the *Education and Labor* Cabinet. The Governor may, however, recommend changes in the organization of the commission to the General Assembly at any regular or special session of the General Assembly.

➔Section 157. KRS 342.143 is amended to read as follows:

For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage shall be certified to the commissioner by the Education and ~~Labor~~~~Workforce Development~~ Cabinet in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar (\$1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars (\$2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. Notwithstanding the provisions of this section, KRS 342.140 and 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the commissioner to be in effect in the calendar year of 1994. If the average weekly wage calculated by the commissioner is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.

➔Section 158. KRS 342.215 is amended to read as follows:

- (1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.
- (2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his or her full time to the duties of his or her office. Each member shall be exempt from the classified service, and his or her support staff may be exempt from the classified service.
- (3) Of the members of the board appointed under this section, one (1) shall serve a term that shall expire on January 4, 2002; one (1) shall serve a term that shall expire on January 4, 2003; and one (1) shall serve a term that shall expire on January 4, 2004, as designated by the Governor at the time of appointment. Thereafter, each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his or her position prior to the expiration of his or her term. The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing the member with a written copy of the charges against him or her and giving the member a public hearing if he or she requests it.
- (4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.
- (5) Members of the Workers' Compensation Board and the administrative law judges shall be members of the Kentucky Employees Retirement System.
- (6) The Workers' Compensation Board shall be attached to the Department of Workers' Claims in the ***Education and Labor*** Cabinet.

➔Section 159. KRS 342.231 is amended to read as follows:

The ***Education and Labor*** Cabinet shall report monthly to the Committee on Appropriations and Revenue its monthly expenditures of restricted agency funds and the nature of such expenditures. Separate reporting shall be done by each office within the ***Education and Labor*** Cabinet and for general administration and support.

➔Section 160. KRS 342.342 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 342.340, KRS 342.350, or any administrative regulations promulgated pursuant to those provisions, the commissioner shall annually review the adequacy of the financial or other security requirements contained in administrative regulations, promulgated pursuant to the individual self-insurance provisions in this chapter. The commissioner shall report the results of the review to the Economic Development and Workforce Investment Committee of the General Assembly and any recommendations for proposed changes to insure the financial soundness of the individual self-insurers authorized pursuant to this chapter. In addition, the commissioner shall report not less often than annually a summary report on the financial soundness of the individual self-insurers.
- (2) The Economic Development and Workforce Investment Committee of the General Assembly shall annually review the administrative regulations promulgated pursuant to the individual provisions under this chapter.
- (3) On July 1, 1994, the Division of Security and Compliance of the Department of Workers' Claims in the ***Education and Labor*** Cabinet shall be expanded by five (5) employees. These additional employees shall be employed for the purpose of conducting financial audits, examinations, and reviews and other activities necessary to ensure and monitor the financial soundness of the individual self-insured employers authorized pursuant to KRS 342.340.

➔Section 161. 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 ~~Development~~~~Investment~~ of the Education and ~~Labor~~~~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 ~~Development~~~~Investment~~ 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 162. 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 ~~Development/Investment~~ in the Education and ~~Labor/Workforce Development~~ Cabinet 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 163. KRS 342.740 is amended to read as follows:

- (1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided

by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. This average weekly wage shall be certified to the commissioner by the Education and ~~Labor~~~~[Workforce Development]~~ Cabinet in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

- (2) Whenever a change in the average weekly wage of the state is of an amount that increases or decreases the minimum weekly income benefits for total disability or death by \$1 or more, or the maximum weekly income benefits for total disability or for death by \$2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in these limitations shall otherwise be made.

➔Section 164. KRS 342.760 is amended to read as follows:

- (1) There is hereby authorized in the *Education and* Labor Cabinet an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The secretary of the *Education and* Labor Cabinet shall be the custodian of the fund, and all moneys and securities in the fund shall be held in trust by the secretary of the *Education and* Labor Cabinet and shall not be considered a part of the general funds of the state.
- (2) The secretary of the *Education and* Labor Cabinet is authorized to disburse moneys from the fund only upon written order of the administrative law judge or the board.
- (3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund.
- (4) The uninsured employers' fund shall be responsible for the payment of compensation when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of all the amounts authorized to be paid therefrom under the authority of this subsection including reimbursement of the special fund of all liability apportioned to it and for the purposes of enforcing this liability the *Education and* Labor Cabinet, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation from the fund. This provision shall apply to all pending claims upon which a final order has not been entered.
- (5) In furtherance of this purpose, the Attorney General shall appoint a member or members of his or her staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The *Education and* Labor Cabinet shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.
- (6) On December 29, 1987, the liabilities of the uninsured employers' fund and its assets remaining in the State Treasury shall be transferred to the uninsured employers' fund created within the *Education and* Labor Cabinet pursuant to this section.

➔Section 165. KRS 342.765 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the office of the Attorney General shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund. Funds to reimburse the Attorney General's office for expenses incurred in litigation and administration in defense of the uninsured employers' fund shall be transferred upon request of the Attorney General's office and approval by the secretary of the *Education and* Labor Cabinet.
- (2) The office of the Attorney General shall report monthly to the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Economic Development and Workforce Investment, and the commissioner the amount of the agency fund expenditures in each month for the uninsured employers' fund and the nature of these expenditures. In addition, the Office of the Attorney General shall report quarterly to the commissioner on the amount of funds recouped from uninsured employers.

➔Section 166. KRS 342.807 is amended to read as follows:

- (1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.
- (2) The board shall consist of the:
 - (a) Secretary of the Finance and Administration Cabinet;
 - (b) Secretary of the Personnel Cabinet;
 - (c) Secretary of the *Education and* Labor Cabinet; and
 - (d) Seven (7) at-large members appointed by the Governor, subject to confirmation by the Senate.
- (3) Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.
- (4) No person shall serve on the board who:
 - (a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;
 - (b) Is not bondable;
 - (c) Is an employee, attorney, or contractor of a competing insurer providing workers' compensation insurance in the Commonwealth; or
 - (d) Is not a resident of this Commonwealth.
- (5) In making the appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from the major sectors of the economy and workforce in the Commonwealth.

➔Section 167. 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~~ *Development*, under the direction and supervision of the secretary of the Education and ~~Labor~~ *Labor* ~~Workforce Development~~ Cabinet, or any person authorized to act in his or her behalf;
- (4) "Council" means the Kentucky Apprenticeship Council, which provides advice and guidance to the Kentucky Education and ~~Labor~~ *Labor* ~~Workforce Development~~ Cabinet regarding the Commonwealth's apprenticeship program;
- (5) "Supervisor" means supervisor of apprenticeship;
- (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 168. 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) at-large members. These six (6) members shall serve for a term of four (4) years and until their successors are appointed and qualified. The commissioner of the Department for Workforce **Development**~~(Investment)~~ shall serve as the seventh member and be chair of the council.
- (b) The council shall meet at the call of the commissioner. A majority of the members of the council, except for the commissioner of the Department of Workforce **Development**~~(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.
- (3) The council shall be attached to the Department of Workforce **Development**~~(Investment)~~ within the Education and **Labor**~~(Workforce Development)~~ Cabinet for administrative purposes.

➔Section 169. KRS 345.010 is amended to read as follows:

When used in this chapter:

- (1) "Public employer" means a city of the first class or a consolidated local government, or any city that petitions the secretary of the **Education and Labor** Cabinet to be included by this chapter;
- (2) "Firefighter" means an employee of the public employer engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;
- (3) "Labor organization" means any chartered labor organization of any kind in which firefighters participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;
- (4) "Exclusive representative" means the labor organization which has been designated by the State Labor Relations Board as the representative of the majority of firefighters in appropriate units or has been so recognized by the public employer;
- (5) "Board" means the State Labor Relations Board;
- (6) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;
- (7) "Secretary" means the secretary of the **Education and Labor** Cabinet of the Commonwealth of Kentucky.

➔Section 170. KRS 345.120 is amended to read as follows:

- (1) There is hereby created and established a State Labor Relations Board to assist in resolving disputes between public employers and firefighters or their labor organization which shall be composed of three (3) members appointed by the Governor, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one

- (1) for a term of four (4) years. The Governor shall designate one (1) member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four (4) year terms by the Governor.
- (2) Each member of the board shall have been an elector in this state for at least one (1) year next preceding his or her appointment. Any member may be removed by the Governor for cause, shown in an administrative hearing conducted in accordance with KRS Chapter 13B. The Governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid fifty dollars (\$50) and expenses for each day during which he or she is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses incurred by the Labor Relations Board shall be shared by all parties concerned in the dispute.
- (3) The board shall appoint employees necessary to carry out the work of the board. All files, records, and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.
- (4) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses; issue subpoenas to require the production of books, papers, records, and documents which may be needed as evidence in any matter under inquiry; and administer oaths and affirmations.
- (5) In case of neglect or refusal to obey a subpoena issued to any person, the Circuit Court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring the person to appear before the board, any member, or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey a court order may be punished by the court as a contempt.
- (6) Any subpoena, notice of hearing, or other process or notice of the board issued under the provisions of this chapter, with the exception of notice requirements for administrative hearings as provided in KRS Chapter 13B, may be served personally, by certified mail, return receipt requested, or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making service and setting forth the manner of service, is proof of service and a returned post-office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of this chapter may be served in the county in which the persons required to be served reside or may be found.
- (7) The board shall, promulgate, amend, or repeal any administrative regulations necessary and administratively feasible to carry out the provisions of this chapter. Public hearings shall be held by the board, pursuant to KRS Chapter 13A, on any proposed administrative regulation of general applicability designed to implement, interpret, or prescribe policy, procedure, or practice requirements under the provisions of this chapter and on any proposed change in an existing administrative regulation.
- (8) The board shall be attached to the **Education and** Labor Cabinet for administrative purposes.

➔Section 171. KRS 347.040 is amended to read as follows:

- (1) The secretaries of the Cabinet for Health and Family Services and the Education and ~~Labor~~**Workforce Development** Cabinet and the chief state school officer shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:
- (a) Identification and prompt and adequate interdisciplinary assessment;
 - (b) Case management services; and
 - (c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.
- (2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.
- (3) The plan shall include:
- (a) The number of institution residents on waiting lists for placement in the community;
 - (b) The number of persons outside institutions on waiting lists for placement in the institution;

- (c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;
 - (d) The number, type, nature, and cost of services necessary for placement to occur;
 - (e) The status of compliance with the plan;
 - (f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and
 - (g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.
- (4) The state health plan shall be developed consistently with the plan required under this chapter.

➔Section 172. KRS 347.060 is amended to read as follows:

The Cabinet for Health and Family Services, the Education and ~~Labor~~~~Workforce Development~~ Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

➔Section 173. KRS 393.082 is amended to read as follows:

- (1) Unclaimed sums delivered to the Kentucky State Treasurer pursuant to KRS 393.080(3) shall be placed in a special expendable trust fund established by the Kentucky Workers' Compensation Funding Commission. The Kentucky Workers' Compensation Funding Commission shall establish a separate trust account with respect to each final determination or order providing for a refund that the Attorney General determines to have a reasonable relationship to the workers' compensation liability of a bankrupt employer.
- (2) The commissioner of the Department of Workers' Claims shall be the administrator of the resulting trust fund established pursuant to this section. The commissioner or his or her designee shall be authorized to determine the value of all workers' compensation claims against the bankrupt employer and to prepare a comprehensive distribution plan. Eligible claimants may elect to participate in a comprehensive distribution plan in exchange for the release of all related claims against the Commonwealth and all of its cabinets, departments, offices, bureaus, agencies, officers, agents, and employees, with the exception of the special fund in the *Education and Labor* Cabinet. A claimant shall agree as part of a release under this section not to file any future motions to reopen the named workers' compensation claim or claims, and not to file new claims with respect to the same injury or occupational disease.
- (3) A comprehensive distribution plan for unclaimed utility refunds placed in a trust account pursuant to this section shall consist of the full payment of workers' compensation income benefits for eligible claimants until the fund is exhausted, subject to the exceptions noted in KRS 393.080 and this section, and may include lump-sum settlements in addition to biweekly payment plans. An initial distribution shall be made to eligible claimants after the commissioner of the Department of Workers' Claims, or the commissioner's designee, has made an initial determination of the number of eligible claimants, the amount of income benefits due, and the amount to be retained as a reserve for pending claims. The initial distribution shall include payment of all past due income benefits, without interest, for eligible claimants.
- (4) Neither the special fund nor the uninsured employers' fund shall be considered to be claimants for the purposes of this section. Medical and related benefits shall not be considered in the valuation of the claims unless the amount available in the trust fund clearly exceeds the estimated value of income benefits for all claims. If a workers' compensation surety bond, letter of credit, or other form of security for the payment of the workers' compensation liabilities of a bankrupt employer has been collected by the commissioner of the Department of Workers' Claims or the Workers' Compensation Board for distribution to claimants in a manner to be determined by court order, it may be assumed in the valuation of the claims in a comprehensive distribution plan that the security will be distributed by the court on a pro rata basis and an appropriate deduction may be taken.
- (5) In preparing the valuation of claims for inclusion in a comprehensive distribution plan, the commissioner or the commissioner's designee shall deduct special fund payments. Settlement of a workers' compensation claim as part of a comprehensive distribution plan under this section shall not accelerate the date on which the special fund's liability becomes due.

- (6) If the bankrupt employer ceased business operations at least three (3) years prior to establishment of a trust account pursuant to this section, only claimants who file workers' compensation claims within sixty (60) days of the establishment of the trust account or before shall be eligible to receive payments from the trust fund.
- (7) All claimants shall cooperate with information requests from the Department of Workers' Claims concerning prior payments of workers' compensation benefits. The commissioner of the Department of Workers' Claims or his or her designee may subpoena witnesses, including present or past managers and officers of the bankrupt employer, and may conduct evidentiary hearings under oath relating to the past and present workers' compensation liabilities of the bankrupt employer or information relevant to unpaid workers' compensation benefits. Administrative subpoenas issued under the authority of the commissioner of the Department of Workers' Claims for this purpose may be enforced in the Franklin Circuit Court.
- (8) The Attorney General shall provide representation of the comprehensive distribution plan as a named defendant in the event the establishment of the trust fund is challenged.
- (9) The provisions of KRS 393.080(3) or this section shall not be construed to constitute an admission of the validity of any workers' compensation claims, nor shall these provisions be interpreted in a manner that would transfer or create liability on behalf of the commissioner of the Department of Workers' Claims, any agency, or employee, beyond that expressly set forth in a comprehensive distribution plan.
- (10) The special fund shall issue trust fund checks in the amounts and to the claimants or claimants' representatives as directed by the commissioner of the Department of Workers' Claims.
- (11) The personnel and other costs of administering a trust fund established pursuant to this section shall be paid out of the investment income of the trust fund.
- (12) Attorney fees shall be subject to the limitations and maximum amounts for the payment of attorney's fees established by KRS 342.320, as well as the approval of the commissioner or his or her designee.
- (13) If a workers' compensation claimant elects not to participate in a comprehensive distribution plan proposed by the commissioner of the Department of Workers' Claims or the commissioner's designee, that claimant shall not be entitled to any portion of the utility refund for the payment of the workers' compensation benefits. A claimant shall have sixty (60) days following issuance of a comprehensive distribution plan in which to make an election to participate or not.

➔Section 174. 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 Department of Workforce ~~Investment~~ **Development**, 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 misdemeanor probation and work release agency of the urban-county government.

➔Section 175. 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 ~~Development~~ **Development** ~~Investment~~ in the Education and ~~Labor~~ **Labor** ~~Workforce Development~~ Cabinet, 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 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 176. KRS 337.065 is amended to read as follows:

- (1) No employer shall require an employee to remit to the employer any gratuity, or any portion thereof, except for the purpose of withholding amounts required by federal or state law. The amount withheld from such gratuity shall not exceed the amount required by federal or state law.
- (2) As used in this section, "gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered.
- (3) ~~[No employer shall require an employee to participate in a tip pool whereby the employee is required to remit to the pool any gratuity, or any portion thereof, for distribution among employees of the employer.]~~
- (4) ~~Employees may voluntarily enter into an agreement to divide gratuities among themselves. The employer may inform the employees of the existence of a voluntary pool and the customary tipping arrangements of the employees at the establishment. Upon petition by the participants in the voluntary pool, and at his own option and expense,]An employer may provide custodial services for the safekeeping of funds placed in a **tip pool mandated by the employer or voluntarily entered into amongst the employees** ~~[the pool]~~, if the account is properly identified and segregated from his other business records and open to examination by pool participants.~~

➔Section 177. The following KRS sections are repealed:

- 151B.020 Education and Workforce Development Cabinet -- Major organizational units -- Secretary.
- 151B.022 National and state criminal background check required for all cabinet and affiliated employees with access to or use of federal tax information.
- 151B.225 Client Assistance Program.
- 151B.280 Offices within Department of Workforce Investment -- Administrative regulations -- Confidentiality of information.
- 336.015 Labor Cabinet -- Organization and personnel -- Responsibility of secretary -- Agencies attached for administrative purposes.
- 336.020 Departments of Workplace Standards and Workers' Claims -- Offices in Labor Cabinet.
- 336.030 Employees -- Appointment -- Salaries.
- 336.040 Functions and duties of Labor Cabinet.
- 336.050 Duties of secretary.
- 336.060 Authority to issue and serve subpoenas and take depositions -- Enforcement of subpoenas.
- 336.125 Criminal background check for employees of Labor Cabinet with access to federal tax information.

➔Section 178. Whereas it is critical to the proper management and administration of the reorganized Labor and Education Cabinet that consolidation take place as soon as possible, an emergency is declared to exist, and this Act takes effect July 1, 2022.

Signed by Governor April 20, 2022.